

CASE NO. 23-4568(L), 23-4595

IN THE
United States Court of Appeals
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TAEYAN RAYMOND WILLIAMS,
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND AT GREENBELT

JOINT APPENDIX - VOLUME V OF VI
(Pages 1974 - 2596)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NUMBER:
SCOTT ANTHONY WILLIAMS and) TDC-18-0631
and TAEYAN RAYMOND WILLIAMS,) VOLUME IX
Defendants.)
_____)

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
BEFORE THE HONORABLE THEODORE D. CHUANG
UNITED STATES DISTRICT JUDGE
Monday, May 8, 2023
Greenbelt, Maryland

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P R O C E E D I N G S

(8:53 a.m.)

THE COURTROOM DEPUTY: The matter now pending before this Court is Criminal Action Number TDC-18-0631. United States of America v. Scott Anthony Williams and Taeyan Raymond Williams. We are here today for the purpose of a jury trial. Counsel, please identify yourselves for the record.

MS. GROSSI: Good morning, Your Honor. Leah Grossi, Michael Hanlon, and William Moomau on behalf of the Government. Here with us at counsel table is Kyle Simms with the Maryland State Police.

THE COURT: Good morning.

MR. HAWKS: Good morning, Your Honor. Kwasi Hawks and Dwight Crawley on behalf of Mr. Scott Williams, who is seated between us.

THE COURT: Good morning.

MR. GUILLAUME: Good morning, Your Honor. Alfred Guillaume and Christopher Nieto on behalf of Mr. Taeyan Williams seated to my left. Good morning to counsel, parties, members of the audience. We're here to continue with the jury trial. I had suggested we come a little early or actually have the jury come back a little late so we can try to lock down the jury instructions. Before we do that, to get a sense of what the timing will be, do we have a better sense on witnesses? Who is going to testify today?

1 **MS. GROSSI:** Your Honor, I believe Sergeant Simms
2 still has to have his cross by Mr. Scott Williams' attorneys.
3 Then we have Mathew Wilde who is a special agent with FBI
4 doing location analysis. And that is our last witness, Your
5 Honor.

6 **THE COURT:** Right. And then Mr. Guillaume, you had
7 said no witnesses. I don't know if that's changed.

8 **MR. GUILLAUME:** No witnesses on behalf of Mr. Taeyan
9 Williams, Your Honor.

10 **MR. HAWKS:** Your Honor, we have no witnesses. And a
11 question on how to proceed. The parties have agreed to a
12 stipulation of admissibility of three photos. Those three
13 photos were taken at the same time as Ms. Parslow, the New
14 York state investigator. There are three photos that were --

15 **THE COURT:** Was this of the residence in
16 Pennsylvania or --

17 **MR. HAWKS:** Yes, Your Honor, the Lomar Road in
18 Pennsylvania. The defense's position is that Mr. Nieto
19 actually laid a foundation for those photos. We're not really
20 concerned about whether we simply admit the photos or admit
21 them through a stipulation, we're prepared to do either, but
22 the defense would propose we simply stand up, offer them for
23 admission, there being no objection, they're received into
24 evidence.

25 **THE COURT:** As part of your case.

1 **MR. HAWKS:** Absolutely, Your Honor.

2 **THE COURT:** Okay. And they're not going to come in
3 before that through cross-examination or anything like that
4 or, I mean --

5 **MR. HAWKS:** Your Honor, I would just to save time
6 propose to do it at the beginning of my cross. As frequently
7 happens, the Government stands up and says, "We offer for
8 admission these exhibits," there's no objection. And then --

9 **THE COURT:** Okay, but are you going to ask the
10 witness any questions about them or not necessarily?

11 **MR. HAWKS:** I will not, Your Honor.

12 **THE COURT:** Okay. Well, does the Government have a
13 view on how to handle this?

14 **MS. GROSSI:** Your Honor, the Government does not
15 object to having those pictures into evidence. They were part
16 of Ms. Parslow's pictures during her search of the house. And
17 so we don't object to having those in evidence.

18 **THE COURT:** So I mean, we can have you offer them
19 when you're standing up. It will be clear it was your idea not
20 theirs, but even though it's technically still within the
21 Government's case. The only reason -- I mean, I'll leave it to
22 you as to whether you care whether it's done as part of that
23 case or as part of your own case. I am indifferent. So if you
24 want to do it that way, I'm fine with that.

25 **MS. GROSSI:** Your Honor, I guess just to add to one

1 thing that I didn't mention, if it would be possible to
2 explain what those photos are when we put them in, I think
3 that would be helpful for the jury not to just have them in a
4 vacuum.

5 **THE COURT:** Well, who does the explaining? I mean,
6 it's not in the written stipulation I take it?

7 **MS. GROSSI:** I believe it is, Your Honor. It's a
8 stipulation that we actually just signed that says that those
9 three photos were taken at that Pennsylvania residence.

10 **THE COURT:** Well, sure. I mean, I think we can have
11 Mr. Hawks offer the stipulation and the photos and then read
12 the stipulation into evidence which we would admit. Then
13 they'd have everything. Will that work?

14 **MS. GROSSI:** That does, Your Honor.

15 **MR. HAWKS:** And we don't object to that way of
16 proceeding.

17 **THE COURT:** Okay, so you can do that. Okay, so then
18 -- well, if there are no actual defense witnesses, again it
19 depends on how long the cross is and the last Government
20 witness, but I think there's a decent chance we get to finish
21 our -- all of our parts today.

22 I did want to ask you about the jury instructions. I
23 think we sent you a revised version that in my view only
24 changes technical things with the exception of adding
25 instruction 17 which is the transcripts instruction which I

1 know the Government said they wanted something like that.
2 That's one I've used in the past. And then there are some
3 additions that are not -- that are substantive, but they're
4 based on the Government's submission as of Friday's submission
5 regarding aiding and abetting in terms of 924(c), willfulness
6 and -- and then also on a different instruction on the perjury
7 issue.

8 My thought was having checked it was that generally on
9 the aiding and abetting, I don't see the willfulness
10 requirement in the Fourth Circuit with the exception of
11 perhaps there are cases where there's a higher mens rea
12 required generally for the underlying offense. I think that's
13 one reason why you can get cases that differ on that point. On
14 the 924(c) I agree that under the *Rosemond* case we need to
15 make an adjustment and I think the language I have offered
16 there based on the Government's submission addresses that.

17 And then on the perjury issue, the way I saw it was that
18 there's been no court finding of perjury, but Mr. Musa did
19 effectively admit that he made some statements either in his
20 written submissions or in his plea hearing that were either
21 under oath or not truthful. I think it's sort of the same
22 difference. We can quarrel over exact wording, but it makes
23 sense to have that instruction because he admitted that there
24 were false statements under oath. Whether we call them lies or
25 perjury, given that there's actually no court finding I don't

1 think we have to use the word "perjury," but I think the
2 message is pretty clear as drafted in the current draft.

3 So I wanted to invite comments on any of the
4 instructions. I don't know where we want to start. Just
5 numerically in that order, does anyone have any issues with
6 the transcript instruction or any of the other technical edits
7 to basically everything up to the charges, instructions 1
8 through 30 or sorry, 1 through 36?

9 **MR. HANLON:** Your Honor, the Court is just looking
10 for any comments about the instructions at this point, just to
11 be clear?

12 **THE COURT:** Right, yeah.

13 **MR. HANLON:** So my only suggestion might be is that
14 the Government is not sure that we necessarily need
15 instruction 15.

16 **THE COURT:** There are a few things that maybe we
17 need to think about whether we need. So why don't we go in a
18 more granular level numerically. I'm just going to look up
19 until 15, is there anything anybody wants to discuss? Okay,
20 well hearing nothing.

21 So 14 and 15 are similar. Honestly in this case we don't
22 have any sort of very traditional looking charts in either
23 category. I'm taking some of these sort of PowerPoint things
24 as being in one category or the other, although since they're
25 in evidence they're probably covered by instruction 14, but

1 you're saying we don't have anything in the category of 15
2 with the possible exceptions of the transcripts which we would
3 cover separately.

4 **MR. HANLON:** That's the Government's view, Your
5 Honor, yes.

6 **THE COURT:** Does anyone have a view on the defense
7 side?

8 **MR. NIETO:** No. That's consistent with our view.

9 **THE COURT:** Okay.

10 **MR. HAWKS:** Us as well, Your Honor.

11 **THE COURT:** Okay, so we'll take out 15. I think
12 that's actually good because honestly it's not super obvious
13 to the jury how to distinguish between those two. So, okay. So
14 16.

15 17, anybody have any issues with the recordings, the
16 transcript instruction? Okay, hearing none. Now I'm going to
17 flip through, if anybody sees anything up to 36, just the
18 non-substantive ones let me know. The list of expert witnesses
19 is that accurate on page 27, instruction 25? Assuming Mr.
20 Wilde testifies.

21 **MR. HANLON:** It is accurate, Your Honor.

22 **THE COURT:** Is that how he spells his name? I don't
23 know if that's my typo or yours or whether he just has a less
24 common spelling.

25 **MR. NIETO:** I think Mathew may have two ts.

1 **MR. HANLON:** Actually, in this instance it's one t.

2 **MR. NIETO:** I stand corrected.

3 **THE COURT:** Okay, well -- they took out Ms. Kelly
4 and that covers it would you say Mr. Hanlon in terms of the
5 other experts?

6 **MR. HANLON:** We believe so, Your Honor, yes.

7 **THE COURT:** Okay. So then 27, 28, 29, these are all
8 related to -- 30, 31, these all relate to the Government's
9 witnesses who had some arguable exposure. I don't think -- I
10 didn't offer anything substantive on any of those. How about
11 up to 31? 31 is the one the Government made a submission on.
12 Anybody see any issues with 31 as drafted now?

13 **MR. HANLON:** Your Honor, on 31 the Government is
14 fine with the text. The Court mentioned that given the
15 context, it wasn't necessary to use the word "perjury." I
16 wonder if it would be possible -- I don't know if this is
17 going back to the jury.

18 **THE COURT:** Yeah, they usually get a copy of this
19 whole package.

20 **MR. HANLON:** I wonder if we could perhaps change the
21 title to "prior false statements" or something like that in
22 light of the Court's comments a moment ago.

23 **THE COURT:** How does the defense feel about that?

24 **MR. NIETO:** Your Honor, respectfully on behalf of
25 Taeyan Williams, we're content with the proposed instruction

1 as written. I understand Your Honor's previous comments and I
2 understand the Government's position. Our position with
3 regards to Mr. Musa is a little less soft. Again --

4 **THE COURT:** No, I understand.

5 **MR. NIETO:** So we think that that is an appropriate
6 classification under the circumstances.

7 **MR. HAWKS:** Your Honor, Scott Williams adopts Taeyan
8 Williams' counsel's position.

9 **THE COURT:** Okay. So the way I'm going to look at
10 this, there's another instruction for which there's sometimes
11 a disconnect. The expert witness one, you may have noticed we
12 always call it "expert" witnesses. The word "expert" I don't
13 think appears in the instruction. I think the movement is
14 towards getting away from that terminology and so a lot of
15 standard instructions just talk about opinion witnesses. I
16 always keep the expert witness header because we actually use
17 the term "expert" in the courtroom otherwise it might be hard
18 for them to understand what's going on. I'm going to put this
19 in the same category for now. I think there's a gray area,
20 frankly, how we treat this. It's not that there's been a court
21 finding. However, he effectively admitted to false statements
22 under oath and he may even have admitted depending on how
23 artful the cross-examination was to the term "perjury" at some
24 point or another. So just as a header I think I'll leave it
25 again, because that term came up. It may help the jury orient

1 to this person. However, I will caution the defense that the
2 headers really are not instructions. They're there to guide.
3 And so again, if you're going to talk about this instruction,
4 you're going to quote it, there is no quote with the word
5 "perjury" in the instruction. So just keep that in mind. I
6 think I'm okay with you saying "Well, instruction 21 is called
7 prior perjury and it says X," but I wouldn't go around saying
8 there's the word "perjury" actually in the text of the
9 instruction. So just, again, given where we are now I think
10 that's sort of a happy medium where they can see why this is
11 here based on the way the testimony came in, but the
12 instruction itself doesn't have that language. So why don't
13 we leave that the way it is.

14 For instruction 32, I had this in italics because I don't
15 know if either side thinks we need this anymore. Obviously
16 there are people who could have been called, but I haven't
17 heard cross-examination or testimony that really highlights
18 anybody in particular, but let me know if you think we still
19 need this.

20 **MR. HANLON:** Your Honor, the Government would -- we
21 were in favor of keeping it in. We don't exactly know what the
22 defense is going to say during their closing argument at this
23 point and there's always other people. I'm not sure there's
24 been heavy cross-examination about it, but who knows what the
25 closing is going to bring. And I don't think it does any

1 harm.

2 **THE COURT:** Okay. Any thoughts from the defense
3 side?

4 **MR. NIETO:** Your Honor, with respect to Taeyan
5 Williams, we hadn't anticipated going down this potential path
6 in closing. We didn't really anticipate there being -- we
7 didn't really think there were uncalled witnesses that would
8 be of such import in our presentation. However, however, I
9 didn't want to tie Mr. Guillaume's hand behind his back in
10 terms of his presentation.

11 **MR. GUILLAUME:** Court's brief indulgence, Your
12 Honor.

13 **THE COURT:** Sure.

14 **MR. NIETO:** Your Honor, again, from our perspective
15 this is not a path of argument that we were going to embark
16 upon, so we'll defer to the Court.

17 **THE COURT:** Okay. Mr. Hawks, Mr. Crawley?

18 **MR. HAWKS:** Your Honor, just the anticipated
19 argument on behalf of Scott Williams certainly isn't going to
20 name some specific person. It will make a broader illusion to
21 things the jury doesn't know, but not in the sense of "if you
22 had only heard from so and so." So the Court's suggestion
23 seems appropriate to Scott Williams.

24 **MR. HANLON:** I would just point out, Your Honor, the
25 jury knows names. They may be wondering EQ, Ricardo Carty,

1 there are people who come up in the case that the jury may be
2 wondering about. I think that the instruction creates a sense
3 of just equipoise and neutrality on the issue. It's
4 appropriate.

5 **THE COURT:** So I think I'm willing to include it.
6 Again, just for that reason. I wonder if -- and I don't see
7 why this would make a difference to you, Mr. Hanlon, what if I
8 take out this line, "and one or more of the attorneys may
9 refer to their absence from trial." Because it may sound like
10 I'm thinking I know what's going to happen and then it turns
11 out it doesn't happen, given that it's been represented it
12 won't happen. Obviously if they do do that you can still look
13 at this instruction and say look, how does that sound?

14 **MR. HANLON:** That's reasonable, Your Honor.

15 **THE COURT:** So we'll take out that last phrase there
16 in the first line, but we'll keep the overall instruction.

17 Okay. So then the rest of up to 36, you have 33, 34, 35
18 and 36. The only major change is turning 36 into one focused
19 on the defendant's right not to testify based on what I've
20 heard which is that neither defendant is planning to testify.
21 Anything up to 36? Okay. Hearing nothing I will continue on
22 to the preliminaries for the charges.

23 37, 38. 40 is one I wanted to discuss with you. On the
24 one hand this is pretty standard to say look, we're only
25 talking about -- well actually, no. There's two of them I want

1 to discuss with you. One of them is 40, you know, the standard
2 language is about evidence being limited to one defendant or
3 another. I'm not sure I remember that coming up. There were a
4 couple scenarios where it definitely could have come up. I
5 think we were talking about the arguable statement against
6 interest which I don't think has come in and I don't think is
7 going to be offered, the conversation between Taeyan Williams
8 and his mother. I'm not sure if there's anything else so I
9 guess the question is do we need this second paragraph?

10 **MR. HANLON:** Your Honor, just a moment, please. Your
11 Honor, the Government is not opposed to the language
12 generally. What we're trying to make sure is that we have an
13 inventory mentally as to what items only came in as to one --

14 **THE COURT:** Right. And I'm not -- nothing is
15 jumping out now. I would and I will find that there's
16 sufficient evidence of a conspiracy involving both defendants
17 that I think things that would be admissible under
18 801(d)(2)(E) would be admissible. But yeah, I'm not sure --
19 one option is to take out that first part and just say "In
20 addition, any evidence admitted solely against one defendant
21 may be considered only as against that defendant" and continue
22 on from there because we're making the representation there
23 was some evidence limited to one defendant. I'm not sure there
24 was, but I'm not going to preclude that possibility that --

25 **MR. HANLON:** So unless my colleagues correct me,

1 Your Honor, I think Scott Williams' statements to Sergeant
2 Simms at the time of the search warrant at Bristolwood I think
3 are only admissible against Scott Williams. Am I missing --
4 Your Honor, that's the only thing I can think of. And again,
5 to be clear, we're not -- it's not abundantly clear to the
6 Government that anything Scott Williams said was incriminating
7 which is why it was admissible against Scott Williams in this
8 case.

9 **THE COURT:** Right. I mean, I guess the obvious
10 question then is does anyone want me to instruct on that
11 information being admissible only against Scott Williams?
12 Looking over at your table, Mr. Nieto.

13 **MR. NIETO:** I felt that. Yes, Your Honor. On this
14 particular instruction, Your Honor, we will defer to the
15 Court. I understand the Court's issues. I can see what Mr.
16 Hanlon is speaking. Obviously there was some pieces of
17 evidence, specifically that call. I think there might have
18 been some of the testimony with regards to -- involving Kerry
19 George and we acknowledged that would be admissible in a joint
20 trial. We didn't raise objections for limitations on that
21 because the drug conspiracy, as well, is a pretty overarching
22 umbrella under which many things fall. But we do acknowledge
23 that there is some evidence that I think was uniquely geared
24 towards one defendant as opposed to the other. And so for
25 those reasons, looking at the case in its totality, we think

1 some instruction would be appropriate, but maybe more akin to
2 what Your Honor has suggested.

3 **THE COURT:** Well, so I think on the one hand, you
4 know, whether it's Mr. George or otherwise, given it's a
5 conspiracy and so forth, I think that is all both relevant to
6 both defendants and there's no rule that would prevent it
7 being admitted because he testified. And to some degree I
8 would say to the extent he talked about statements made by Mr.
9 Scott Williams it was still while Mr. Scott Williams was still
10 at least in theory trying to advance a conspiracy.

11 I think what Mr. Hanlon is pointing out is that
12 statements to law enforcement after an arrest or a search
13 arguably are testimonial. And therefore, given that Scott
14 Williams is unavailable, there would be a problem admitting
15 them against Taeyan Williams unless they fall into one of
16 these other categories. As Mr. Hanlon said, I don't think
17 there was anything in there that pointed the finger at Taeyan
18 Williams. So therefore, we don't have a Bruton problem and no
19 one has raised one. So there's no problem having them
20 admitted against Scott Williams. I guess the point is that if
21 you wanted an instruction saying that's only admissible
22 against Scott Williams, we can do that. And then obviously
23 we'd have this instruction too.

24 If as a matter of just sort of trial strategy or how you
25 want to approach it you wanted to decline that, that's fine

1 with me too. I just wanted to give you the option so the
2 record is clear that you have that option.

3 **MR. NIETO:** Understood, Your Honor. And if I may
4 very briefly.

5 **THE COURT:** Okay, sure.

6 **(Counsel conferred privately off the record.)**

7 **MR. NIETO:** Thank you so much, Your Honor. Yes,
8 after speaking with co-counsel, we do think that some
9 delineation should be made, at least specifically to that post
10 search and seizure warrant interview with Sergeant Simms. So
11 if the Court is inclined to provide that instruction, that is
12 what we would request.

13 **THE COURT:** Okay, so how about this: I will -- I'll
14 keep in this instruction that we just referenced and after the
15 first sentence which is "Some of the evidence in this case was
16 limited to one defendant," I will say specifically, "The
17 statements made by Scott Williams to Sergeant Simms after or
18 during the execution of the search warrant at the Bristolwood
19 Court residence are admissible only against Scott Williams and
20 may not be considered as evidence against Taeyan Williams."
21 And I'll say, "Let me emphasize, any evidence admitted solely
22 against one defendant may be considered only" -- and put that
23 into the -- leave that sentence. It's a little redundant, but
24 just keep that. So I'll add that sentence in there directing
25 them to that one piece, at least.

1 Any problems with that?

2 **MR. NIETO:** No, Your Honor. Thank you.

3 **MR. HAWKS:** No, Your Honor.

4 **THE COURT:** Government?

5 **MR. HANLON:** I think the Government is fine with the
6 language, Your Honor. We're all in agreement that this is
7 strictly to the statements made at the time in connection with
8 the search warrant, not the search warrant itself. I think
9 we're clear on that issue. The Government is fine.

10 **THE COURT:** Okay. Obviously the Government can
11 address those statements whichever way they're going to be
12 used or can focus everyone on that point.

13 So instruction 41, we have this line in here that says
14 "You've heard evidence of other acts allegedly committed by
15 the defendants." And again, the broad point that they need to
16 only focus on the charged events make sense. It's something we
17 always say. Either depending on what other allegedly bad acts
18 may exist, we either expand on this, contract it, add some
19 very specific 404(b)-type language.

20 My recollection of the evidence is that there's no sort
21 of glaring other act out there that we need to have a very
22 formal instruction on under 404(b) or the like. There was
23 discussion about the West Virginia drug conviction and so
24 forth. I think having heard the evidence it was pretty clear
25 to me that whatever drugs -- and I think the parties reached

1 an accommodation on this point effectively acknowledging that
2 the drugs found in West Virginia were effectively intrinsic to
3 this case and I don't think anybody is running away from that.

4 On the one hand I think it was kept out or there was no
5 -- everyone agreed that it wasn't necessary to talk about how
6 he was convicted, but then I think someone did raise that
7 probably as a matter of strategy to show that that piece has
8 already been addressed. So, I mean, that could be -- I think
9 that could warrant an instruction like this. I don't know if
10 we need to go into anything highly detailed. There were some
11 statements made or some evidence about not necessarily
12 criminal acts, but acts that could be viewed negatively by
13 Scott Williams in terms of the reasons why he might have been
14 deleting things on his phone and things like that. Again, not
15 things that are crimes, at least ones that one might mistake
16 as a crime they need to opine on here, but they are other
17 acts. So I wanted to get everyone's views on what we should
18 do with this instruction. Should we add anything to it,
19 subtract anything from it? I took out the part that says
20 "When it was introduced I instructed you it was being
21 considered for a limited purpose" because I don't think I
22 actually did that, unless you can remind me of a situation.
23 But like we did with the last one, if someone wants that
24 instruction now we can add that back in and say "Well, this
25 was only used for some other purpose." So I wanted to get

1 everyone's views on this instruction.

2 **MR. HANLON:** So Your Honor, the Government doesn't
3 have any problem with instruction 41 generally. The Government
4 doesn't think that the italicized language is really necessary
5 here because there has been no 404(b) evidence in this case.
6 The West Virginia matter was intrinsic. The closest we get is
7 this other cell phone issue which I think the defense put as
8 much evidence on as the Government did because they wanted to
9 sort of put it in context.

10 I would suggest we take out the italicized language. I
11 think it might be confusing to the jury if they are wondering
12 if they have to delineate things that are part of the offenses
13 or not.

14 **THE COURT:** Okay, this is one that usually benefits
15 the defense, so I wanted to see what their view is.

16 **MR. NIETO:** Your Honor, we would concur with the
17 Government's suggestion that the italicized sentence, it can
18 be confusing.

19 **THE COURT:** Okay. Does the Scott Williams team have
20 a view on this?

21 **MR. HAWKS:** Your Honor, we concur with the other two
22 parties.

23 **THE COURT:** Well, right. I think on the one hand I
24 think there are other things, it may draw attention to things
25 that may not seem like a big deal and might make them sound

1 like they're a bigger deal than they are. So we'll keep this
2 in generally to instruct them that they can consider evidence
3 for anything other than the charges, but I'll take out the
4 italicized language there. And everyone agrees as I'm hearing
5 from the defense that there's no need for any kind of
6 404(b)-type instruction regarding any other particular act in
7 this case.

8 Okay, so then 42, 43, 44 up to the charges I don't see
9 any -- I didn't make any changes to those.

10 Once we get to the charges themselves, this Count Nine
11 there's a lot of different ways it's been called in terms of
12 what the statute says and what the instructions say. I
13 reverted back to the way it was in the proposed instruction
14 from the parties just because my assumption was the parties
15 were comfortable with destroying and concealing as to sort of
16 the title so-to-speak of that charge.

17 So as we go through these, let's start with -- well,
18 let's go count by count. As I ordered it we have Count Three
19 first, the Hobbs Act instructions. This includes the extortion
20 and the robbery parts of it. We'll put in the cross-referenced
21 numbers as soon as we figure out exactly how many instructions
22 we have. Anything up until instruction 54 anyone wants to
23 change?

24 Okay, then kidnapping with death resulting. This is 55
25 forward which I think takes us out to 62 which includes the

1 lesser included offense. Anybody have any proposals for those
2 instructions?

3 **MR. HANLON:** Your Honor, I'm sorry. The number
4 we're up to, did I hear 52? I apologize.

5 **THE COURT:** Well, Hobbs Act robbery took us up to --
6 or Hobbs Act took us up to 54. And then kidnapping with death
7 resulting was 55 to 62.

8 **MR. HANLON:** Thank you, Your Honor.

9 **THE COURT:** That's how far we are now.

10 **MR. HANLON:** The only thing I noticed, Your Honor,
11 is I think there might be a typo in instruction 58.

12 **THE COURT:** Okay. Point it out for me if you can.

13 **MR. HANLON:** In subsection B in the second paragraph
14 I think it should say, "avoid paying a debt owed by the
15 defendants," if memory serves.

16 **THE COURT:** Yeah, that's probably right. We'll fix
17 that. Okay. So now let's see. 63 is Count Six and Seven. I
18 just wanted to make sure I'm clear on this. The indictment
19 charged 500 grams or more of methamphetamine. And remind me
20 again are we asking them to determine a quantity or not? I
21 don't think we are anymore, are we?

22 **MR. HANLON:** So Your Honor, I believe the verdict
23 sheet did ask for a verdict on quantity, if memory serves.

24 **THE COURT:** Let me kind of flip through here again.
25 Yes, it does, but that's just on Count VII only, right?

1 **MR. HANLON:** That's correct.

2 **THE COURT:** Not asking for quantities on the cocaine
3 or marijuana.

4 **MR. HANLON:** That is correct.

5 **THE COURT:** So -- so anything on 63, 64, 65 all the
6 way up to -- actually, on 73 I think we need to add an "a" --
7 sorry, on instruction 66 we need to add an "a" after "drug
8 was" "a" controlled substance in the very beginning there.
9 Just noticing that. So anything up to 67 which is the Count
10 Six and Seven instruction before we get to conspiracy?

11 **MR. HANLON:** Not from the Government, Your Honor.

12 **MR. NIETO:** Nothing from the defense, Your Honor.

13 **MR. HAWKS:** None, Your Honor.

14 **THE COURT:** Okay, so now we get to conspiracy. 68,
15 69. Start with the drug conspiracy. Everything up until 72.
16 And then 73 and 74 are the Hobbs Act conspiracy. 75 I see we
17 need to -- "destroy," I think I left a letter out on "destroy"
18 on the header. But 75, 76, 77 other than changing the title,
19 it's really the same thing. Anything up to 78?

20 **MR. HANLON:** Not from the Government, Your Honor.

21 **MR. NIETO:** Not for Taeyan Williams.

22 **THE COURT:** And 79 is also part of the conspiracy
23 group. If anybody has anything there let me know, otherwise we
24 move onto these firearm counts. 80, 81, 82, 83, moving
25 quickly. On 83 I have a comma in the word "violence" in the

1 last paragraph. We need to fix that. And then 84, 85, 86,
2 lesser included offense. 87, 88 which are Count Eight.
3 Anything up to 91 which is the rest of the drug -- the rest of
4 the 924(c) charge -- instructions?

5 **MR. HANLON:** Not from the Government, Your Honor.

6 **MR. HAWKS:** No, sir.

7 **THE COURT:** How about 92? This is the one we did
8 make some changes to. So what I did here was on the
9 willfulness I took the language straight out of *Wilson* rather
10 than going to the model one even though I generally agree it's
11 the same point, but I figure we might as well use the language
12 that comes from our circuit more specifically than the generic
13 language. And then I added the *Rosemond* piece at the end.

14 **MR. HANLON:** No objections from the Government, Your
15 Honor.

16 **MR. NIETO:** None from Taeyan Williams either, Your
17 Honor.

18 **MR. HAWKS:** None, Your Honor.

19 **THE COURT:** Okay, then that just leaves the
20 Pinkerton instruction which is instruction 93. And then 94 is
21 unanimity where it's just causing us all to work overtime, but
22 I think I didn't make any substantive changes to that. And 95
23 is punishment. And then I usually stop there. So I would give
24 all the instructions except 96. I usually give 96 after the
25 closing arguments just to focus them just on the process

1 they're going to follow.

2 Anything on any of the rest of them? Okay.

3 So anything -- well, so I have the Government's proposed
4 slides for closing argument. Admittedly I want to look at
5 those now before we start the testimony again. Just does the
6 defense have these or not in terms of whether they have any
7 objections?

8 **MS. GROSSI:** Yes, Your Honor. They were on the same
9 e-mail.

10 **THE COURT:** Okay. So any issues from the defense on
11 this?

12 **MR. GUILLAUME:** No, Your Honor. I couldn't see any
13 and I provided a rough draft. I'm still working through my
14 PowerPoint, but I provided a rough draft to the Government. I
15 don't know if they have any objections to mine, but this may
16 be the time to discuss it if they do. I hope not, but --

17 **MR. HANLON:** So Your Honor, the only concerns the
18 Government has with the slides from Taeyan Williams' counsel
19 is that there's a couple of pieces of clipart of a marijuana
20 farm or something like that that I don't think are in
21 evidence.

22 **THE COURT:** Clipart like B-roll-type stuff?

23 **MR. HANLON:** That's how I read it, Your Honor.

24 **MR. GUILLAUME:** Your Honor, that is correct. With
25 respect to Mr. Rayburn I did include some imagery for argument

1 purposes. It's not an exhibit. I'm not going to argue that
2 it's an exhibit. I'll even say that to the jury. But yes,
3 specifically I included a picture of a marijuana farm and a
4 wellness spa. He testified that he was --

5 **THE COURT:** Not his, just a generic one?

6 **MR. GUILLAUME:** Not his, just generic photos.

7 **THE COURT:** These are photos or sort of graphical
8 representations?

9 **MR. GUILLAUME:** Photos, Your Honor, stock photos.
10 Also there's photos with respect to the testimony Mr. Cox gave
11 about Mr. Smothers having a storage facility and a money
12 counter and vacuum-sealed cash and large amounts of marijuana.
13 There's stock photos of those as well. So those would be I
14 think the entirety of the--

15 **THE COURT:** You mean like a money counter, a stock
16 photo of a money counter?

17 **MR. GUILLAUME:** Excuse me?

18 **THE COURT:** You mean a stock photo of a money
19 counter?

20 **MR. GUILLAUME:** Stock photo of a money counter, yes.

21 **THE COURT:** Don't we have a photo of a money
22 counter? I mean, it's not a great photo, it's probably while
23 it's still in place, but --

24 **MR. GUILLAUME:** We may, Your Honor. I can't recall
25 off the top of my head.

1 **MR. HAWKS:** Your Honor, we have a photo of a thing
2 from the back that's mechanical that a witness had opined was
3 a money counter, a witness who was not at the search. So
4 Scott Williams would say we do not have in evidence a photo of
5 a money counter, but a --

6 **THE COURT:** Well, a conclusive photo of a money
7 counter.

8 **MR. HAWKS:** Yes, Your Honor.

9 **MR. GUILLAUME:** My inclination was the photo was
10 based on the testimony of witnesses, particularly Mr. Cox and
11 Mr. Rayburn, Your Honor. And my take, I guess my term is
12 argument, artistic liberties if that's such a thing. I've done
13 it in other cases. Not to say that it's whatever, just to say
14 that that's why I did it in this case.

15 **THE COURT:** Okay, before we get to that, Mr. Hawks
16 and Mr. Crawley, do you have any visuals that you either
17 shared or haven't shared yet?

18 **MR. HAWKS:** Your Honor, we haven't shared them.
19 Every single visual that we have is directly an exhibit or
20 it's a portion of an instruction. And then we have -- it's
21 notes and essentially it's a reference to exhibits that we
22 would suggest to the jury.

23 **THE COURT:** Okay, well I would ask to at least at a
24 minimum let me see it. Obviously counsel showing it to each
25 other I think is a nice professional courtesy which frankly,

1 makes everything more efficient, but I understand sometimes
2 people don't want to do that. I've started to take the view
3 that I at least should look at it for the reason Mr. Hanlon
4 identified. Sometimes there's stuff that's not in evidence
5 and either I catch it and it was inadvertent or it was sort of
6 there for a reason. And so that's why just to be fair since I
7 did ask everyone else to let me look at it before you do it,
8 but it sounds like it will be fine based on how you've
9 described it.

10 So Mr. Hanlon, what's your view on what you've heard from
11 Mr. Guillaume on his artistic license?

12 **MR. HANLON:** Well, Your Honor, I understand why the
13 defense wants to use it, I certainly get that, but we have
14 evidence in this case that the defense can use. And showing
15 clipart and things from the internet I think can be -- and I'm
16 sure Mr. Guillaume is going to make it as clear as possible
17 during his argument, but showing photos of things that are not
18 in evidence and then talking about the evidence is going to be
19 confusing. We're a little confused about the money counter,
20 for example. There's been plenty of evidence that there was a
21 money counter in this case.

22 So the Government does object to these art forms coming
23 in of photos that I think the jury is going to go back there
24 and wonder "Oh, well this must be what so and so's business
25 looks like."

1 **THE COURT:** I haven't seen it myself, have I?

2 **MR. GUILLAUME:** Actually, should I e-mail your
3 chambers now?

4 **THE COURT:** Do you have a hardcopy right now or not?

5 **MR. GUILLAUME:** I don't.

6 **THE COURT:** I guess you can e-mail chambers. We'll
7 try to print it out. I mean, I am skeptical, Mr. Guillaume.
8 And I'll be honest with you. I understand there's different
9 ways of looking at this. I mean, if you put on the screen the
10 word, you know, "marijuana farm," that probably was said, I
11 probably would be okay with that. The pictures I have some
12 concerns with.

13 Honestly, the reason why we're in this discussion where I
14 said maybe I should affirmatively look at these things is the
15 Government tried exactly what you did in an earlier case. One
16 of our prosecutors' colleagues had, you know, clip art of
17 gasoline cans and stuff from the internet that was not in
18 evidence and I was -- I thought it was a problem. And I didn't
19 object myself in the middle, but I was thinking about doing
20 that. And I also told the U.S. Attorney's Office they
21 shouldn't do that anymore.

22 So having done that, I don't know if it's fair to let a
23 defense counsel do what I've just told them they can't do. So
24 that's the problem I would have in allowing it I think in
25 particular is I've told the Government not to do that. And it

1 sounds like they're not going to do that in this case. So I
2 don't know if there's a way to adjust your presentation.

3 **MR. GUILLAUME:** I'll let the Court see, Your Honor,
4 and if the Court wants me to take it out, I'll take it out.

5 **THE COURT:** Again, just to be fair, you know,
6 admitted exhibits is one thing. Even something that was, you
7 know, a demonstrative aid that was used in the trial, like if
8 at some point in the trial you had said "Hey, did your farm
9 look like this?" I don't know. If there was a way that you
10 had it in front of them it would be a better argument. I don't
11 think it's going to harm anything. I don't disagree with you,
12 but at the same time, again I've tried to be, you know, your
13 colleagues in the defense bar will probably thank me for not
14 letting the Government do that, but I want to be fair to both
15 sides generally.

16 Mr. Hawks?

17 **MR. HAWKS:** Your Honor, I have a hardcopy. However,
18 it's my only hardcopy and so --

19 **THE COURT:** Okay, well we have a few minutes before
20 10 so I could probably peek at it before 10 and give it back
21 to you.

22 Any other issues with slides or anything like that?

23 **MR. HANLON:** Your Honor, one other thing. So I think
24 it's the last slide in Taeyan Williams' set, uses words to the
25 effect, I'm paraphrasing, communicates to the jury words to

1 the effect of "Taeyan Williams' life is in your hands."

2 Something like that.

3 **MR. GUILLAUME:** I said "fate," not "life" which I
4 typically say in all cases. I can take the word out and just
5 say it because I think it's an accurate assessment.

6 **THE COURT:** So are you objecting to the slide, or
7 the statement, or both?

8 **MR. HANLON:** Your Honor, let me make sure I've got
9 my facts straight.

10 **MR. GUILLAUME:** Your Honor, while we're doing that
11 I'm just loading it. It's sort of large, so it's coming to
12 Your Honor but it's still loading on my computer. I'm
13 e-mailing to you the presentation.

14 **MR. HANLON:** It does not bother the Government as
15 much as the clipart, Your Honor. It does seem to ask the jury
16 to take into consideration punishment, which of course they're
17 not supposed to. But admittedly, it is less of a concern to
18 the Government than the clipart is.

19 **THE COURT:** Okay, well let's take this step by step.
20 Not having seen it, I mean, I think you said it's "Taeyan
21 Williams' fate is in your hands"?

22 **MR. GUILLAUME:** It's prefaced, Your Honor -- I'm
23 sorry it's taking so long to load up. It's prefaced by
24 talking about the role of the jury and they, the people, the
25 Fathers envisioned, talking about the Fathers envisioning the

1 people making the decision as to whether the Government met
2 their burden of proof, not attorneys or judges or law
3 enforcement. And so therefore the people, being the jury in
4 this case, have the responsibility to weigh this evidence and
5 assess whether it's proof beyond a reasonable doubt. And then
6 in the end, the last thing in the slide says that "Taeyan
7 Williams' fate is in your hands." So I typically end with some
8 sort of a --

9 **THE COURT:** Sure. I think I'm going to allow it. I
10 think "life" would have been a little harder. "Fate" I think
11 is a generic term that doesn't necessarily implicate a
12 sentence or how long the sentence would be. And I understand
13 the point which is fair that the jury makes these decisions,
14 not the Court or anyone else. So that's about right up to the
15 line, Mr. Guillaume. So I wouldn't try any more language
16 other than what you've got there, but I think I'd be okay with
17 that.

18 **MR. GUILLAUME:** No, Your Honor. I would just use
19 the "fate."

20 **THE COURT:** I'll be okay with that.

21 **MR. GUILLAUME:** If I say that at all. It's there in
22 the slide, but I'm e-mailing Your Honor right now the
23 presentation.

24 **MR. HAWKS:** Your Honor, to that end we don't have a
25 visual, but I intended to say something to the effect of "it's

1 a very serious charge and because of that it's imperative that
2 you take it very seriously," that it's -- and so I would never
3 characterize it with a number or something like that, but I
4 think one could conclude from the emphasis that I'm saying
5 that this is -- it has the potential to affect --

6 **THE COURT:** I think "serious" -- I mean, I have
7 "serious" in the instructions somewhere in the early part so
8 I'm okay with that if you're saying that these are very
9 serious charges.

10 So admittedly, I don't know if I did this earlier on, Mr.
11 Hawks, I usually say it, but I think with our pretrial
12 conference I think it was truncated because of timing and so I
13 didn't cover this. Hold on one second. Well, they're not
14 numbered, but when you quote the jury instructions and I'm
15 assuming that they're accurate based on the latest version,
16 you just may want to check that.

17 Again, something I was really hard on the Government on
18 because they're the ones that do it a lot is I'm fine with
19 parties talking about the instructions. The two things I
20 always tell them, one is don't paraphrase, just quote because
21 then you're changing the instructions arguably, and that's
22 sort of oral or written. I also say when you quote the
23 instructions on a slide, I ask the parties not to emphasize or
24 leave out anything. So coloring in or underlining or bolding I
25 tell them not to do or leaving words out and putting an

1 ellipsis in or putting in brackets around a word and changing
2 the word, even if it's a grammatical issue just because I
3 think the instructions are what they are. There's an
4 instruction saying that you should not -- the jury should
5 consider them as a whole. So I think overemphasizing one word
6 or the other depending on how it's done I find it can be too
7 much. And so both sides, but often times it's the Government,
8 I'd caution them just to if you directly quote and you can use
9 your voice to emphasize words if you want, you can talk about
10 a word and not the others, but where I try to draw the line is
11 to say at least what they are seeing is at most just a direct
12 quote from the instructions without any emphasis. So I'd ask
13 if you could take out the underlining and the color on that.

14 **MR. HAWKS:** Yes, Your Honor.

15 **THE COURT:** But otherwise you can leave that in
16 there. So assuming these are direct quotes which I'd have to
17 compare, but that's the only thing I notice in looking at
18 this, although admittedly there's some sort of --

19 **MR. HAWKS:** And Your Honor, not everything in that
20 packet would be displayed to the jury. There are notes.

21 **THE COURT:** I see. Yeah, it sort of seems that way.
22 That's fine. Okay, so assuming some of these notes, I mean,
23 again nothing jumps out as problematic other than the
24 instruction emphasis words.

25 **MR. HAWKS:** Your Honor, in an abundance of caution,

1 there's something you gave us that made it very clear we're
2 not to characterize the beyond a reasonable doubt standard. I
3 do intend to compare it and say that basically it's -- there's
4 other legal standards and it is the highest and so in an
5 abundance of caution.

6 **THE COURT:** Everybody is always doing that. I think
7 I'm okay with that. But the Fourth Circuit doesn't like us or
8 doesn't allow us to give any sort of sub-definition of that
9 term. So that's why the instructions don't have that and I
10 would ask you not to do that as well. But if you want to say
11 it's above preponderance or clear and convincing, I think
12 that's pretty standard things.

13 **MR. GUILLAUME:** Your Honor, I want to be sure for
14 the record I'm clear that in light of the Court's instructions
15 to Mr. Hawks about underlining, I did have some of that direct
16 quotes underlined in mine as well that I did not edit before I
17 sent it to you, but I have edited just now. So I took out for
18 the Government's purposes as well, took out the underlines in
19 those quotes.

20 **THE COURT:** I take it the Government -- I'm just
21 flipping through the Government's right now. It's really long.
22 Any issues with that jury instruction issue? Because again, I
23 don't know if I emphasized that with all of you up front as I
24 often do when we have more time in the pretrial conference.

25 **MS. GROSSI:** No, Your Honor. I don't quote the jury

1 instructions in the PowerPoint.

2 **THE COURT:** And then it looks like the PowerPoint
3 was sent as a Google Drive link which you're already
4 challenging me as it is, but I'm told it's not opening.

5 **MR. GUILLAUME:** I'm sorry, Your Honor. I don't --
6 to just make these easier, I can take out the stock photos. I
7 don't have any problem with that. I'm going to argue what's in
8 evidence. I'll just take out the stock photos to make it
9 easier.

10 **THE COURT:** That would be helpful. Again, every
11 situation is different, but I think trying to have a bright
12 line for both sides on that makes sense.

13 Do we have any issues on timing? I want to make sure
14 we're all on the same page. I think the Government asked for
15 additional time at the beginning. I said I wanted to reserve
16 on that because I frankly didn't know what we were dealing
17 with or how complicated this case was going to be or not. I
18 haven't heard anything since, so my assumption is everyone
19 with varying degrees of happiness was going to work within the
20 original time constraints. But I just want to make sure if
21 there's additional requests that we sort those out now. It's a
22 little late to sort of change course I suppose, but --

23 **MR. HANLON:** So Your Honor, the Government would ask
24 this-- and I'm sorry for the flipping back. I'm supposed to do
25 the rebuttal, Ms. Grossi is doing the opening close, hence the

1 flipping back and forth. I ask that the Government be given a
2 total of an hour and 15 minutes. An hour for closing, 15
3 minutes for a rebuttal. Partly because with two defendants, we
4 will have two hours of defense closings. So there's likely
5 going to be a bit to talk about in the rebuttal. And it's a
6 big case, Your Honor. I think the Government needs an hour
7 for a closing. I think that's a relatively modest request
8 given the nature of the case and the amount of argument.

9 **THE COURT:** So what is the expected length of the
10 defense closings at this point?

11 **MR. HAWKS:** Your Honor, it's 30 minutes, roughly.

12 **MR. GUILLAUME:** I would say it's between 30 and 45
13 minutes, Your Honor. Depending on what Mr. Hawks says it may
14 be truncated a little bit because we probably hit some similar
15 points.

16 **THE COURT:** Is the plan for Mr. Hawks to go first?

17 **MR. GUILLAUME:** That's what I was thinking because
18 he went first --

19 **THE COURT:** So again, I mean, obviously the
20 defendants are differently situated since as has been pointed
21 out there's no obligation. And often in some cases there is
22 no overlap. Sometimes there is, sometimes there isn't, or a
23 need to cooperate or even a desire to cooperate. At the same
24 time, it sounds like the overall defense picture is going to
25 be over an hour. Again, not to say that you should have to

1 coordinate, but just that there will be at least that much
2 material for the Government to deal with.

3 **MR. GUILLAUME:** Your Honor, if I may, I think the
4 longest I'll be is 45 minutes and I think the shortest is
5 probably around 30. So no matter what Mr. Hawks does, I think
6 I'll be at least 30 minutes.

7 **THE COURT:** Okay. Do either of you have a view on
8 the Government's request?

9 **MR. HAWKS:** Your Honor, just in context, I feel like
10 I have strove to be courteous throughout this trial. That
11 being said, the issues between these two defendants are very,
12 very similar and so for that reason I would say that I think
13 the Government can address it all in an hour, including their
14 rebuttal time. And so I would object to them getting 75
15 minutes.

16 **MR. GUILLAUME:** I've tried to be accommodating as
17 well, Your Honor, but the Government already has my argument.
18 I've given it to them. So they know what I'm going to say.
19 They can address that however they choose. I just don't want a
20 situation where the Government is given too much time, but I
21 do want to be fair to them as well, of course. But I want to
22 be of course 100 percent fair to my client, Your Honor. So I
23 guess that's a long way of saying that I agree with Mr. Hawks,
24 but ultimately whatever decision the Court makes I'll abide
25 by.

1 **THE COURT:** Right. I think I'm going to allow it in
2 this case for two reasons: One is there are two defendants.
3 There is overlap on some of the evidence, but I think there's
4 no question that the two defendants are differently situated.
5 This is one of the reasons why even without knowing the case I
6 gave them additional strikes at the beginning. I think the
7 defense conveyed pretty clearly that they are not in lockstep.
8 They have different theories, both clients, the evidence that
9 affects -- you know, some of the same evidence may exist but
10 it affects their clients in different ways. And so I do think
11 there is some difference in terms of what we'll hear from the
12 two different defense counsel.

13 Secondly, as we said, I mean, collectively the defense is
14 going to present potentially more than an hour. Certainly I
15 don't think they want to be limited to less than that and so--
16 and then just in the evidence in this case having heard it,
17 there's just a lot of pieces of evidence. This is not one of
18 those cases where you have sort of direct evidence where the
19 only debate is whether you believe that one person or not.
20 There's a lot of small pieces of evidence that at least my
21 sense of it is they're at least relevant and worth discussing
22 even if the parties may disagree on how valuable they are to
23 the case.

24 And so I think just the complicated nature of the
25 evidence, number of witnesses, number of documents,

1 recordings, et cetera, and the fact that the defendants are
2 differently situated and they are going to need some separate
3 discussion, one cannot I think fairly argue this case without
4 having separate discussions of the two defendants. I'll allow
5 it. However, I will say this: I think I said this at the
6 outset that first of all, I'll keep it pretty strict, the hour
7 and 15. I will, you know, if opening argument goes past an
8 hour I'm not going to stop that, but it's going to come out of
9 the rebuttal time. And I am maxing out the rebuttal at 15
10 minutes. I think that's a little generous. Again, different
11 judges or different attorneys have philosophies on this. I am
12 very much against the idea that the Government saves anything
13 for rebuttal that they could have said in the opening argument
14 because yes, they have the burden of proof, but they don't get
15 to just throw things out there without anybody having a chance
16 to respond to it. So any more than the 15 minutes I think is
17 opening the door to that potentially even if it's not
18 intended. So even if the opening argument comes in short of
19 an hour we're going to keep the rebuttal to 15 minutes one way
20 or the other. So that's how we'll handle it.

21 Okay. Anything else on the arguments? So what I'll do is
22 why don't we -- sorry, Mr. Hawks?

23 **MR. HAWKS:** Your Honor, would there be an
24 opportunity to after the Government argument, for the jury to
25 take a break? And I would volunteer some of my hour to that

1 end.

2 **THE COURT:** Here's what I'm thinking is a lot of it
3 depends on how long the evidence will be. I mean, my hope
4 would be -- particularly now you've told me we're not going to
5 have specific defense witnesses. I think I was told that the
6 rest of the Government's case overall it sounded like it was
7 about an hour-and-a-half max, I don't know, depending on the
8 cross and the direct. That what we would probably do if that's
9 all done let's say by like 11:30, we would do the jury
10 instructions before lunch. They're actually quite long and I
11 think it actually would be good for them to have a break from
12 that. And then we would pick this up after lunch. And then I
13 mean, I guess it just depends. I would ordinarily do -- I
14 don't think you can reasonably do with these three arguments
15 instead of just two, no break. So the logical place probably
16 would be the Government's opening and then the first closing,
17 and then take a break between the two defendants and then the
18 rebuttal. I think that's sort of the natural stopping point.
19 But does anyone think that's not going to work? So then
20 you're talking like an hour-and-a-half, break, and then
21 another hour after that. Otherwise we're going probably well
22 over two hours which is pretty much the max I allow the jury
23 to deal with.

24 **MR. HAWKS:** Your Honor, I may have misheard you. It
25 would be Government initial argument, then the first defense

1 argument, then break? Or Government --

2 **THE COURT:** That's what I think is the natural way
3 to do it just in terms of the time, but if anyone has a
4 different view of how to do it, I mean, if -- I mean, I
5 suppose one could do the two defendants and the rebuttal, that
6 doesn't add up to more than two hours, so I don't know. Does
7 the Government have a view on this? I mean, my assumption,
8 Mr. Hawks, just to be totally transparent is I think you're
9 probably interested in having a little break just to think
10 about what was said?

11 **MR. HAWKS:** Your Honor --

12 **THE COURT:** There's nothing wrong with that. I
13 mean--

14 **MR. HAWKS:** Honestly, Your Honor, it was the thought
15 that -- I got their slide back and I think there's 120 slides.

16 **THE COURT:** You think they're going to need a rest.

17 **MR. HAWKS:** I think they're right at that hour and
18 it was more kind of the mental palate of the jury I wanted
19 cleansed with a break.

20 **THE COURT:** Well, I mean, I know both sides always
21 like to kind of have it -- nobody wants to be disadvantaged on
22 the sequence. I think the jury generally figures this out one
23 way or the other. The Government I don't think is at a
24 disadvantage by having a break because they have the rebuttal
25 at the end anyway, so I don't know. Does anyone have a view

1 on how we should do breaks if we have --

2 **MS. GROSSI:** We defer to the Court, Your Honor.

3 **MR. GUILLAUME:** Your Honor, I'll defer as well, but
4 I do think now that -- I think Mr. Hawks -- I would be fine
5 with his way as well because it gives a bit of the break, but
6 however it falls it falls, so I'm okay with whatever.

7 **THE COURT:** Why don't we do this: Like I said, I
8 don't -- we'll definitely take a break. Like I said, I would
9 probably have assumed it would be -- I also didn't know the
10 Government's would be a full hour. I thought it might be 45,
11 50 minutes with the rebuttal on the back side. So having done
12 that I think that would have been too early with the full
13 hour, it could be the same difference. Let's just wait and see
14 when we're done with the evidence and I'll let you know just
15 based on where we are on the clock, how that will work.

16 Honestly, the jury instructions I have no idea how long
17 they're going to be. It's somewhat unprecedentedly long from
18 my perspective, but I also know that's not what they're here
19 for in terms of presentation. So we'll move through that as
20 efficiently as we can, but we'll definitely take a break.
21 Let's just sort of see how things fall out with lunch and
22 everything and I'll let you know well in advance.

23 Okay, is the jury here?

24 **MR. MOOMAU:** Your Honor, if I don't say it now I'll
25 forget about it.

1 **THE COURT:** Sure.

2 **MR. MOOMAU:** There's one other matter and I realized
3 when we were going over exhibits after court with Ms. Solomon
4 on Friday -- or Thursday. There was one exhibit and this was
5 totally my fault because I made a mistake on the list. I
6 intended to introduce or move in 175 through 184, but I think
7 I just said 175 and 184. The Court realized during the
8 testimony and then I moved it in. And then the Court asked me
9 did I want to admit 184A. And I thought it was another exhibit
10 the Court was talking about and I said yes. We didn't refer to
11 184A. It was some geo Google location data. And I talked to
12 Mr. Nieto about it. He didn't have a problem with the
13 Government moving to withdraw that. I didn't get a chance to
14 talk to Mr. Hawks or Mr. Crawley because we were going over a
15 video before court this morning and I just forgot about it.
16 But I would move and we didn't refer to it any, to withdraw
17 184A.

18 **THE COURT:** Okay. So I don't know if the defense,
19 who hasn't been asked about this yet, has any view on this? I
20 mean, is there a problem with 184, Mr. Moomau, in terms of
21 184A? Is it sort of redundant or is it --

22 **MR. MOOMAU:** It just wasn't mentioned any at all and
23 the jury might take it back and wonder what this is.

24 **THE COURT:** It looks like it's something about a
25 location near Binghamton.

1 **MR. MOOMAU:** Yeah.

2 **THE COURT:** So it seems not particularly relevant
3 although I don't know if Mr. Hawks, do you have a copy of this
4 or do you have a view on this?

5 **MR. HAWKS:** Your Honor, I do and we'd ask that it
6 remain in evidence.

7 **THE COURT:** Other than sort of in your view not
8 being relevant, is there any problem with this being here, Mr.
9 Moomau?

10 **MR. MOOMAU:** No, it just wasn't discussed on direct
11 with the witness. I mean, if the defense wants to bring it up
12 on --

13 **THE COURT:** Well, what is it by the way?

14 **MR. MOOMAU:** It was a Google location data on Noah
15 Smothers' Gmail account when his father was using a search
16 after that account remained logged in from the Binghamton
17 address. That's what it is.

18 **THE COURT:** But it just shows a location near his
19 family residence in Binghamton?

20 **MR. MOOMAU:** Yeah.

21 **THE COURT:** It doesn't jump out as being
22 particularly relevant, but I also don't hear sort of a 403
23 argument on why it can't stay in evidence.

24 Mr. Hawks, do you see value in this? It sounds like you
25 do.

1 **MR. HAWKS:** I do, Your Honor. I can expound or I
2 can--

3 **THE COURT:** Just give me some sense of why it's
4 relevant.

5 **MR. HAWKS:** Your Honor, this establishes the idea
6 that the use of an electronic device registered to one person
7 by another person occurs. And that's of great relevance.

8 **THE COURT:** Say that again. Use of an electronic --
9 say that again.

10 **MR. HAWKS:** Your Honor, basically that I might have
11 this person's device, but I use it to search -- I'm a
12 different person than this person and I use it to search.

13 **THE COURT:** Meaning Mr. Roger Smothers had access to
14 it?

15 **MR. HAWKS:** Yes, Your Honor.

16 **THE COURT:** Okay. Well, I think we'll leave it in.
17 Whatever value it is, it is.

18 Okay, I would suggest we take a very brief break just so
19 that everyone here doesn't go beyond the two hours I was just
20 laying out. Is the jury ready?

21 **THE COURTROOM DEPUTY:** Almost.

22 **THE COURT:** Let's take a five-minute break here so
23 everyone here doesn't go over the two hours. And as soon as
24 they're ready and everyone else is ready, we'll restart. Okay.
25 Thank you.

(Recess was taken from 10:03 to 10:09 a.m.)

THE COURT: Thank you, everyone. Please be seated.

We can have the witness come into the courtroom while we're waiting.

MR. CRAWLEY: Your Honor, there will be one issue concerning the Government's closing list of exhibits or slideshow for better --

THE COURT: Why don't we do that at the next break.

MR. CRAWLEY: Okay.

THE COURT: Thank you.

(Jury entered the courtroom at 10:10 a.m.)

THE COURT: Thank you. Everyone please be seated. Ladies and gentlemen, welcome back from our version of the long weekend and we are ready to continue with the trial. The Government can call its next witness.

MR. MOOMAU: Your Honor, redirect or the cross-examination?

THE COURT: I'm sorry, we still have Sergeant Simms on the stand, but -- and Sergeant Simms, I'll remind you you're under oath based on the oath last week.

(Witness, Kyle Simms, having been previously sworn, remained under oath and testified as follows:)

THE WITNESS: Yes, sir.

THE COURT: Thank you.

C O N T I N U E D C R O S S - E X A M I N A T I O N

1 **BY MR. HAWKS:**

2 Q. Sergeant Simms, good morning.

3 A. Good morning, sir.

4 Q. Now Sergeant Simms, what we were talking about last
5 Thursday, you are the lead case agent in this case?

6 A. Correct.

7 Q. And as the lead case agent in this case, among other
8 things, it fell to you to draft the affidavit for the search
9 warrant of the Bristolwood property?

10 A. Yes, sir. That's correct.

11 Q. And we talked briefly about this the last time you were
12 on the stand. It's very important that that affidavit be
13 correct?

14 A. Yes, sir.

15 Q. And its audience is a judge?

16 A. Yes, sir.

17 Q. Now in that search warrant affidavit, you wrote that the
18 information that you had about who Mr. Smothers was going to
19 meet was a, quote, "Tae and his uncle"?

20 A. That's correct.

21 Q. And you, in fact, repeated that, you repeated the facts
22 in different parts of the affidavit that you were looking for
23 Tae and his uncle?

24 A. That's correct.

25 Q. And that's -- that investigation is sort of a heavy one

1 because Tae has, in fact, seven uncles; isn't that true?

2 A. I'm not sure how many uncles he has.

3 Q. Are you aware of him having uncles?

4 A. Yes, I am.

5 Q. Now once you had drafted the affidavit, but before you
6 executed the affidavit, there were coordinating tasks that
7 fell to you; is that true?

8 A. Can you expound on that a little?

9 Q. Elaborate? Sure.

10 A. Yes, sir.

11 Q. Among those coordinating tasks is, for example, the first
12 Maryland State Police who were going to be at the scene were
13 not going to be you and other investigators, but actually a
14 SWAT team basically?

15 A. Yes, sir. That's standard procedure that they would make
16 the initial contact at the residence.

17 Q. Sure. And you conducted surveillance and then informed
18 the SWAT team about your surveillance?

19 A. Yes, sir.

20 Q. And the idea is they would know basically what they're
21 going into?

22 A. Yes, sir.

23 Q. And your surveillance noted that there were two Porsche
24 SUVs on that Bristolwood property? If you --

25 A. I believe that's accurate, yes, sir.

1 Q. And your belief at the time was that those two cars
2 didn't work?

3 A. I don't recall whether I knew whether they worked or not.

4 Q. Okay. You also noted a Nissan Altima rental car?

5 A. Okay.

6 Q. Do you remember that?

7 A. I vaguely remember seeing one in the driveway.

8 Q. Okay. And again, if you remember, is it a 2018 Nissan
9 Altima rental car?

10 A. I don't recall the exact -- of that car that I saw during
11 that surveillance, it may have been.

12 Q. Do you recall that you knew in your communication with
13 the SWAT commander that Taeyan Williams was driving that
14 rental car?

15 A. You're saying that I communicated to the SWAT commander
16 that he was driving the vehicle?

17 Q. You communicated to the SWAT commander that there's a
18 2018 Nissan Altima and that you, quote, "know that the driver,
19 the frequent driver was Taeyan Williams"?

20 A. Okay, I don't believe that was accurate. I may have said
21 that, but --

22 Q. Okay, so you --

23 A. I wouldn't have had necessarily information to
24 corroborate that.

25 Q. So you communicated that at the time, but you're saying

1 it may have occurred later and it was not true?

2 A. I don't know that it necessarily was not true, but I
3 don't recall having that information at that time.

4 Q. Now do you recall last week we spoke before you took the
5 stand?

6 A. Okay.

7 Q. And do you recall that I gave you two pieces of
8 information to review before you testified?

9 A. Yes, sir.

10 Q. And one of those was your e-mail to that SWAT commander?

11 A. Yes, sir. I recall that.

12 Q. And do you recall you returned that to me and you said,
13 "I don't need these anymore"?

14 A. I remember returning them to you, yes, sir.

15 Q. Okay. Now the handgun that was found in this case is a
16 Sig Sauer P228; is that true?

17 A. That was one of the weapons, yes, sir.

18 Q. And the Sig Sauer P228, would you agree with the
19 statement that a Sig Sauer is a very well regarded handgun,
20 the maker of Sig Sauer is very well regarded in the gun
21 industry?

22 A. Yes, sir.

23 Q. And in fact, the Sig Sauer makes standard issued side
24 arms for a number of police forces across the United States?

25 A. Yes, sir.

1 Q. And, in fact, you received an exemplar six hour P228 from
2 the Bureau of Alcohol, Tobacco and Firearms; is that true?

3 A. Yes, sir, it is.

4 Q. And, in fact, that for years is their standard issue
5 firearm?

6 A. I'm not familiar with that, but --

7 Q. Okay. Now is it true that if you know, legally here in
8 the state of Maryland you can go to a gun store, a person can
9 go to a gun store and purchase a 9 millimeter handgun for
10 under \$300?

11 A. I'm sure there are, yes, sir.

12 Q. And they're not highly regarded, basically they're cheap
13 handguns?

14 A. If it's under \$300 it would be regarded as a less
15 expensive, cheap handgun, yes, sir.

16 Q. But the Sig Sauer P228 and Sig Sauers in general are much
17 more expensive than that?

18 A. They can be, yes, sir.

19 Q. Okay. Now showing -- I'm showing you what's been admitted
20 as Exhibit 458. It's a black and white copy. The original is
21 actually in color. That's a Sig Sauer P228?

22 A. It appears to be, yes, sir.

23 Q. And now I'm showing you the Sig Sauer P228 in Exhibit 455
24 and that's the same weapon, but it's disassembled?

25 A. Yes, sir.

1 Q. And now I'm showing you page 4 of Exhibit 450 which shows
2 a Sig Sauer P228, but it's in a different condition; is that
3 correct?

4 A. Different condition how?

5 Q. Specifically the slide is locked back in this weapon?

6 A. Yes, sir. That's accurate.

7 Q. And now the slide being locked back -- and I'm going to
8 indicate this top metal piece of the firearm, the slide is
9 that metal piece on the top of the firearm; isn't that true?

10 A. Yes, sir.

11 Q. And you'll see a series of arrows in the diagram. The
12 third arrow up, that's the slide catch. Is that true?

13 A. Can I circle it just to --

14 Q. Oh, please.

15 A. Yes, sir. So if that's the area you're referring to, yes,
16 sir. That would be the slide catch.

17 Q. And basically what that does is if you touch that, that
18 allows the slide to move forward?

19 A. Once the slide is to the rear, yes, sir. If you were to
20 press that down the slide would move forward, correct.

21 Q. And would you agree that if you do that and you don't
22 slow the movement of the slide, the slide slips back into
23 place very, very quickly?

24 A. Yes, sir.

25 Q. Okay. Now there are two tubes at the front of this

1 firearm. One is the barrel and it's the top tube and that's
2 the thing that basically the bullets come out of; is that
3 true?

4 A. Yes, sir.

5 Q. And then there's a lower tube and that tube, it's the
6 recoil spring guide.

7 A. Yes, recoil spring tube or recoil spring guide, yes, sir.

8 Q. Would you agree that both of those tubes are only exposed
9 when the slide is back?

10 A. Um, you can see them when the slide is forward. They are
11 partially exposed.

12 Q. And again, I'm going to show you Exhibit 458. That's what
13 the handgun looks like when the slide is forward?

14 A. Yes, sir. But it does not show the recoil spring tube or
15 the muzzle of the barrel.

16 Q. And so to see either of those things essentially you'd
17 have to be looking down the barrel?

18 A. Yes, sir. If you look to the front of the gun you can
19 see both the barrel and the recoil spring tube.

20 Q. Now that slide being locked back, it can be manually
21 locked back? In other words, someone can grab the slide, pull
22 it back, engage the slide catch and then lock the slide back?

23 A. Yes, sir. That's correct.

24 Q. Additionally, if I were to have cartridges in the
25 magazine and fired them all, that slide by operation of the

1 handgun, it will lock back when I fire the last cartridge out
2 of the magazine?

3 A. Yes, sir. Out of an empty magazine it will automatically
4 lock to the rear.

5 Q. Now when it's locked like that, if I pull the trigger,
6 will it fire a cartridge?

7 A. You're saying with the slide locked to the rear will it
8 fire a cartridge?

9 Q. Just to be clear, I'm going to show you Exhibit 450, page
10 4. When it's in that condition and the weapon in the Exhibit
11 450, clearly there's no magazine in, but if there was a
12 magazine in but the slide was still locked back, if I were to
13 press the trigger, would it fire?

14 A. No, sir, not until the slide is forward.

15 Q. And in fact, the way you chamber around, the way you put
16 a bullet in the position to be fired is that you let the slide
17 go forward and that chambers the round?

18 A. Correct.

19 Q. Okay. We've got to talk about Alfred Musa. You were
20 present for two proffers with Alfred Musa; is that true?

21 A. Yes, sir.

22 Q. Okay. And when I say "proffer," I mean the kind of formal
23 place where one was by Zoom, one was in person, but he's
24 brought in front of you and representatives of the U.S.
25 Attorney's Office and he tells you what he knows?

1 A. Correct. Yes, sir.

2 Q. And the first of those was back in October of 2020?

3 A. Yes, sir.

4 MR. MOOMAU: Objection.

5 THE COURT: What's the objection?

6 MR. MOOMAU: Scope.

7 THE COURT: Sustained.

8 MR. HAWKS: Yes, Your Honor.

9 BY MR. HAWKS:

10 Q. Now you spoke about -- you were asked questions earlier
11 about the early developing of this investigation. Is that
12 true? When I say "earlier," I mean both on direct and the
13 other examination.

14 A. Yes, sir.

15 Q. Okay. And sort of the start of this case was information
16 you received that Mr. Smothers had traveled to Baltimore.

17 A. Yes, sir.

18 Q. And you had information that Mr. Smothers had met with
19 people in Baltimore?

20 A. I don't believe that's accurate. I just knew at the time
21 in the very early stages that he had traveled to Maryland and
22 Baltimore, particularly.

23 Q. Well, at some point you understood that one, he was in
24 the business of dealing drugs?

25 A. Yes, sir. I was aware of that.

1 Q. And two, that his trip to Baltimore was a commercial one?
2 He didn't come to see the waterfront, he came to engage in his
3 drug business?

4 A. That was my understanding, yes, sir.

5 Q. And you were told there were two people, some quote -- or
6 two groups of people, some quote, "Jamaicans and a girl" were
7 his biggest clients in Baltimore?

8 A. I don't know that it was phrased that way. I also don't
9 know that that female is necessarily from Baltimore, just
10 maybe in the Maryland area.

11 Q. Okay. That his trip to Baltimore, he could encounter her
12 even if she was not exactly from Baltimore?

13 A. Potentially, yes, sir.

14 Q. Okay. And that female was Monique Tobler?

15 **MR. MOOMAU:** Objection.

16 **THE COURT:** What's the objection?

17 **MR. MOOMAU:** Same as before, Your Honor. The scope
18 of the direct.

19 **THE COURT:** Why don't we approach on this for a
20 second.

21 **(Counsel approached the bench.)**

22 **THE COURT:** So I guess the first question is is this
23 within the scope, Mr. Hawks?

24 **MR. HAWKS:** I'm sorry?

25 **THE COURT:** How is this within the scope of direct?

1 **MR. HAWKS:** Your Honor, I think broadly speaking,
2 he's testified about his development of the early leads and
3 this goes to that.

4 **THE COURT:** So I mean, as a practical matter, he's
5 the case agent. They can call him in their case in chief if
6 they want. So is there -- I mean --

7 **MR. MOOMAU:** And Your Honor, that's correct. And
8 then they couldn't lead him, but they're trying to get in a
9 bunch of hearsay, what other people said, information that
10 Sergeant Simms heard during the development of the
11 investigation.

12 **THE COURT:** Okay, so I don't know anything about
13 this other drug dealer or whatever you want to call her. So
14 what do we expect him to say about this?

15 **MR. HAWKS:** Your Honor, that Monique Tobler was not
16 a drug dealer. Jacob Rayburn was the one who came up with
17 Monique Tobler. She's not a drug dealer. So he was throwing
18 out names of people who he was exaggerating the drug dealing
19 nature of people in Baltimore to deflect suspicion from
20 himself.

21 **THE COURT:** I'm sorry, Mr. Rayburn was?

22 **MR. HAWKS:** Yes, Your Honor.

23 **THE COURT:** In a discussion with Sergeant Simms?

24 **MR. HAWKS:** He did. Yes, Your Honor.

25 **MR. MOOMAU:** I'm not sure if Rayburn was asked that

1 on cross-examination.

2 **THE COURT:** I don't think he was. Did that come up
3 in the cross of Mr. Rayburn?

4 **MR. HAWKS:** He was asked about the girl, not the
5 name Monique Tobler and he said he didn't recall what he had
6 told them.

7 **THE COURT:** Well, I think there could be this issue
8 about hearsay because I don't know -- we're asking him to say
9 something that Mr. Rayburn said and decide whether it's true
10 or not?

11 **MR. HAWKS:** No, Your Honor. To simply say that his
12 investigative pursuit of it yielded no results.

13 **THE COURT:** Of this other person.

14 **MR. HAWKS:** That's --

15 **THE COURT:** You're saying this is a name that he got
16 from Mr. Rayburn and he didn't find any --

17 **MR. HAWKS:** Yes, Your Honor.

18 **THE COURT:** So other than scope, is there any
19 problem with that?

20 **MR. MOOMAU:** No. I mean, it is giving into like
21 calling him as a witness going beyond, but I trust Mr. Hawks
22 and if he says he's going to stop at that --

23 **THE COURT:** Again, be careful of the hearsay issue.
24 I'll certainly listen to any objections on that point. In
25 terms of -- I'll allow this in the sense just as a matter of

1 efficiency because again, he could be recalled in your case in
2 chief. Are we going to have a lot of other areas that didn't
3 connect back to --

4 **MR. HAWKS:** With regard to that Alfred Musa being
5 beyond the scope, I would have requested permission, I have
6 some other questions. I want to come back and just request
7 permission to adopt them just for judicial economy.

8 **THE COURT:** What would you be getting into with him
9 on Mr. Musa?

10 **MR. HAWKS:** That I just want to get the dates of
11 these proffers with Mr. Musa and he literally on
12 cross-examination he's already answered some questions about
13 Mr. Musa.

14 **THE COURT:** So you're not going to get into the
15 content of discussions, just the dates?

16 **MR. HAWKS:** One content issue. It's been addressed
17 already on cross. There's a phone that Mr. Musa discussed and
18 then they didn't find anything of investigative value, despite
19 Mr. Musa's promises.

20 **THE COURT:** Right. Okay, so other than scope do you
21 have any issues with that?

22 **MR. MOOMAU:** No, that was covered by Mr. Nieto's
23 cross and just the dates, asking him did you meet with him on
24 those dates.

25 **THE COURT:** Well, you can do that just to save time

1 for later.

2 **MR. HAWKS:** May I proceed in the leading format?

3 **THE COURT:** As of now, yes. We'll see how it goes,
4 thanks.

5 (Counsel returned to their trial tables.)

6 **BY MR. HAWKS:**

7 Q. Again, Sergeant Simms, if you remember, you were given a
8 name of a girl, their words, in Baltimore who was a client
9 along with the Jamaicans?

10 A. A client of Mr. Smothers'?

11 Q. Yes, a drug dealing associate of Mr. Smothers.

12 A. Okay. Are you saying there's an association with the
13 Jamaicans? You said "along with." I'm sorry, I just want to
14 clarify what you're asking.

15 Q. Let me be more clear, I apologize. Jacob Rayburn told you
16 that there were two major sets of clients in Baltimore, quote,
17 "the Jamaicans" and then, quote, what he described as "a
18 girl." But actually older than Noah Smothers.

19 A. I'm not sure that Jacob Rayburn necessarily relayed that
20 to me in the beginning stages, but yes, there was information
21 relayed that there was another female client of his in the
22 Maryland area.

23 Q. And do you agree that after pursuing that investigative
24 lead she was not -- she may have recreationally used drugs,
25 but there was no evidence she was a drug distributor with Noah

1 Smothers?

2 A. Um, there was information that she was, yes, a drug user
3 potentially, but that's all the information that we learned at
4 the time.

5 Q. Now we had some questions about Alfred Musa. You met with
6 him in October of 2020?

7 A. That sounds about right, yes, sir.

8 Q. And then in May of 2021?

9 A. Again, sounds about correct.

10 Q. Okay. And he described in the May meeting that there was
11 a telephone?

12 A. Yes, sir. He did describe there was a cell phone
13 involved.

14 Q. And just to be clear, cell phones in jail are contraband?

15 A. Yes, sir.

16 Q. And so he told you that this cell phone was being used by
17 Mr. Scott Williams?

18 A. Yes, sir.

19 Q. And he told you that Mr. Scott Williams was using his
20 phone repeatedly to contact the so-called third man in this
21 alleged conspiracy?

22 A. Yes, sir.

23 Q. And you coordinated with the guards at the Chesapeake
24 Detention Facility?

25 A. Yes, sir.

1 Q. And you acquired and seized that phone?

2 A. I received the records from that device, yes, sir.

3 Q. And there was nothing of investigative value to this
4 investigation on that phone?

5 A. There were a number of phone numbers that had been called
6 from that device. None that I necessarily could immediately
7 attribute to anybody being involved in this case.

8 Q. Okay. And you've had now a couple of years to do that?

9 A. Yes, sir.

10 Q. Court's indulgence. Thank you, Sergeant Simms. Nothing
11 further.

12 **THE COURT:** Okay. Any redirect, Mr. Moomau?

13 **MR. MOOMAU:** Yes. Briefly, Your Honor.

14 **R E D I R E C T E X A M I N A T I O N**

15 **BY MR. MOOMAU:**

16 Q. Sir, you were asked some questions about the search
17 warrant at Bristolwood Court. Do you remember what date that
18 was when that search warrant was done?

19 A. June 6, 2018.

20 Q. And as far as state charges filed against Mr. Scott
21 Williams as a result of that search, do you remember -- did
22 you file state charges?

23 **MR. HAWKS:** Objection, scope.

24 **THE COURT:** Sustained.

25 **BY MR. MOOMAU:**

1 Q. Sir, you were asked on cross-examination by Mr. Nieto
2 about the date of the first federal charges being filed in
3 this case. Do you remember when that was?

4 A. I don't want to guess, but I believe it was in January of
5 2019.

6 **MR. MOOMAU:** Court's indulgence. Your Honor, could I
7 approach the witness and show him an identification exhibit?

8 **THE COURT:** Yes.

9 **MR. HAWKS:** Your Honor, I would say it's an improper
10 refreshed recollection. The witness has testified and given an
11 answer that was wrong.

12 **THE COURT:** Okay, well, I mean, you can use it in a
13 number of different ways. So if you have a basis to use it,
14 I'll allow you to show it to him. Just use it in the correct
15 way.

16 **MR. MOOMAU:** I'll follow up.

17 **BY MR. MOOMAU:**

18 Q. Sir, you had said the date that you thought it was?

19 A. Yes, sir.

20 Q. Are you sure on that?

21 A. Not entirely, no.

22 Q. And would anything assist you in refreshing your
23 recollection about the exact date?

24 A. My report.

25 Q. Okay. What about -- anything else?

1 A. I guess a copy of the actual indictment or charges.

2 **MR. MOOMAU:** Can I approach the witness, Your Honor,
3 just for the purposes of showing an identification only
4 exhibit?

5 **THE COURT:** Yes.

6 **MR. MOOMAU:** And I'm going to show the witness what
7 is marked for identification purposes only as ID 60.

8 **BY MR. MOOMAU:**

9 Q. Do you recognize the exhibit, ID 60?

10 A. Yes, sir.

11 Q. And does that assist you in refreshing your recollection
12 about the date?

13 A. Yes, sir.

14 Q. And what is actually ID 60 without reading anything, just
15 describe what it is.

16 A. Sure. This is the, I guess, a copy of the indictment
17 dated December 19, 2018.

18 **MR. MOOMAU:** May I approach and retrieve the
19 exhibit? Thank you.

20 **BY MR. MOOMAU:**

21 Q. And sir, you were asked by Mr. Nieto on cross last week
22 about various electronic evidence that you had looked for, but
23 wasn't available. Do you remember that? Such as surveillance
24 video footage around the Bristolwood Court?

25 A. Yes, sir.

1 Q. And even around -- in the vicinity of or I guess the Red
2 Roof Inn, correct?

3 A. Yes, sir.

4 Q. And was an attempt made to see if any of that information
5 was available?

6 A. Yes, sir.

7 Q. And what was the result there?

8 A. None of the video surveillance was available at the time
9 that I looked for it.

10 Q. Did that come up also with any other electronic evidence
11 in the case?

12 A. Cell phone records as well.

13 Q. Any one in particular?

14 A. Yes, sir. Location data and logs for a number ending in
15 6897.

16 Q. And do you know what that phone was served under, a name?

17 A. OG.

18 Q. Okay. And when you attempted to obtain information about
19 that, what was the result?

20 A. The phone company said that the number was a prepaid
21 number and my request was beyond their retention time for
22 those records and they were no longer available for me to
23 obtain.

24 Q. I'd like to show you -- Mr. Hawks had asked you a few
25 questions about the firearm. I'd like to show you what's been

1 admitted as Exhibit 453. Do you recognize that document, sir?

2 A. Yes, sir.

3 Q. And you were asked some questions about, I guess,
4 location, various items on the firearm. Does this firearm
5 correctly show -- does this picture correctly show what the, I
6 guess, the replica firearm looked like and the end of it?

7 A. Yes, sir.

8 Q. All right. And are you able to indicate on there, on that
9 exhibit like where blood was -- or where -- yes, where blood
10 evidence was found on the actual firearm?

11 A. Yes, sir.

12 Q. And what are those areas called?

13 A. That would be the muzzle end of the barrel on the
14 left-hand side. On the right-hand side that would be the
15 recoil spring tube.

16 Q. All right. That's all the questions I have. Thank you.

17 **THE COURT:** Anything just on that?

18 **MR. HAWKS:** Yes, Your Honor.

19 **THE COURT:** Go ahead. Mr. Guillaume, anything or Mr.
20 Nieto, anything?

21 **MR. NIETO:** Yes, Your Honor.

22 **THE COURT:** Why don't we start with Mr. Nieto. Just
23 keep the same order.

24 **R E C R O S S - E X A M I N A T I O N**

25 **BY MR. NIETO:**

1 Q. Sergeant Simms, in relation to exhibit for identification
2 60, that was the indictment that you had looked at during Mr.
3 Moomau's redirect?

4 A. Yes, sir.

5 Q. Ask just for purposes of clarification, I had asked you
6 last week whether or not that indictment was from December of
7 2018. It was, in fact, correct?

8 A. The actual indictment, yes, sir, it was.

9 Q. Yes, sir. And additionally, again, looking at the charges
10 there, again, Taeyan Williams in that indictment was only
11 facing drug charges. Is that your understanding as well?

12 A. That's my understanding, yes, sir.

13 Q. All right, thank you so much.

14 **THE COURT:** Okay. Mr. Hawks?

15 **MR. HAWKS:** Thank you, Your Honor.

16 **R E C R O S S - E X A M I N A T I O N**

17 **BY MR. HAWKS:**

18 Q. You were just asked some questions about how long ago the
19 search warrant was generated; is that true?

20 A. Yes, sir.

21 Q. And I had asked you various questions about your briefing
22 or your communication with the SWAT commander about your
23 surveillance and you indicated that you didn't remember.

24 A. I remember the communications, I didn't necessarily
25 remember saying that it was a 2018 Nissan Altima. I recalled

1 seeing a Nissan Altima there, but not specifically the year.

2 That's what I did not recall.

3 Q. Would looking at that e-mail perhaps refresh your
4 recollection?

5 A. Yes, sir.

6 **MR. HAWKS:** Your Honor, may I?

7 **THE COURT:** Yes.

8 **BY MR. HAWKS:**

9 Q. I'm showing you what's been marked as ID Exhibit 1155.

10 A. Okay.

11 Q. Sergeant Simms, you just review that and when you've had
12 an opportunity to review it, just look up at me.

13 A. Yes, sir.

14 Q. Now the SWAT commander outranks you?

15 A. Yes, sir.

16 Q. And so it's important to be truthful to him?

17 A. Yes, sir.

18 Q. And this is for an entry into an environment you're not
19 sure about. So again, it's important to be truthful?

20 A. Yes, sir.

21 Q. There were two SUVs?

22 A. Yes, sir.

23 Q. And at that point your belief is they didn't work?

24 A. Can you repeat that?

25 Q. At that point when you wrote this communication, this is

1 May 31st before the June 6th search --

2 A. Yes, sir.

3 Q. Your belief is that those two Porsches didn't work?

4 A. I stated that I was not confident that either were
5 operational.

6 Q. And that's sort of a long way of saying you didn't think
7 they would work; isn't that true?

8 A. Yes, sir.

9 Q. Okay. And then you noted that there was a 2018 Nissan
10 Altima?

11 A. Yes, sir.

12 Q. And you noted your belief at the time that it was Taeyan
13 who was its driver?

14 A. That's what I said in the e-mail, yes, sir.

15 Q. Okay. May I retrieve, Your Honor?

16 A. Yes. Sergeant Simms, thank you. I have no further
17 questions, Your Honor.

18 **THE COURT:** Okay, thank you. Sergeant Simms, you can
19 return back to your original seat.

20 And Ms. Grossi, who is next?

21 **MS. GROSSI:** The Government calls Mathew Wilde to
22 the stand.

23 **THE COURT:** Thank you.

24 **THE COURTROOM DEPUTY:** Sir, please come forward to
25 the witness stand. Remain standing and please raise your right

1 hand.

2 (Witness, sworn.)

3 THE COURTROOM DEPUTY: You may be seated, sir.

4 THE WITNESS: Thank you.

5 THE COURTROOM DEPUTY: Speak clearly into the
6 microphone. Please state your first and last name.

7 THE WITNESS: My name is Mathew Wilde.

8 THE COURTROOM DEPUTY: Please spell your first and
9 last name for the record.

10 THE WITNESS: M-a-t-h-e-w W-i-l-d-e.

11 THE COURTROOM DEPUTY: Thank you, sir.

12 D I R E C T E X A M I N A T I O N

13 BY MS. GROSSI:

14 Q. Good morning, Mr. Wilde.

15 A. Good morning.

16 Q. Mr. Wilde, where do you work?

17 A. At the FBI.

18 Q. What's your current title?

19 A. Supervisory special agent.

20 Q. How long have you been a supervisory special agent with
21 the FBI?

22 A. Almost a year.

23 Q. And what was your title before that?

24 A. I was a national asset with the Cellular Analysis Survey
25 Team for about three years.

1 Q. And what is entailed with being a national asset for the
2 Cellular Analysis Survey Team with the FBI?

3 A. Yeah, so the Cellular Analysis Survey Team is a group of
4 about 80 individuals. Special agents and task force officers
5 were located all around the country. Being a national asset, I
6 was one of 17 agents in the United States that focused
7 specially on analyzing historical phone records.

8 Q. And the Cellular Analysis Survey Team, is that also
9 referred to as CAST?

10 A. It is.

11 Q. So prior to being assigned the CAST unit, where did you
12 work?

13 A. I worked at the Baltimore Field Office working in violent
14 crime with the Baltimore City Police Department.

15 Q. And how long did you work in that unit?

16 A. About four years.

17 Q. What were your responsibilities in that unit?

18 A. To investigate bank robberies, homicides, commercial
19 robberies and kidnappings.

20 Q. And where did you work before that?

21 A. I worked in the Rockville office here in -- well, in
22 Montgomery County Maryland and there I investigated violent
23 crime and drugs and gangs.

24 Q. And when you say "the Rockville office," do you mean the
25 Rockville office of the FBI?

1 A. Yes.

2 Q. And how long have you worked for the FBI?

3 A. Since 2010.

4 Q. In connection with your placement in the Rockville FBI
5 office, what did you do there?

6 A. There I worked violent crime and gangs.

7 Q. So it would be safe to say that you're familiar with the
8 Maryland geography; is that correct?

9 A. Yes. I've worked in Montgomery County, Prince George's
10 County, crossing over into Washington DC and then basically
11 all the way up to Delaware.

12 Q. Now going to your duties in the CAST unit, what type of
13 professional training have you received in connection with
14 your work in the CAST unit?

15 A. So I have over 400 hours of training beginning with a
16 class I went to in 2012. It was called Basic Project
17 Pinpoint. During that class we learned how to read historical
18 phone records, specifically the cell tower data associated
19 with those and then generate a very basic map. So I used that
20 technique in every one of my cases between 2012 and 2016, at
21 which time I was asked to go to the CAST Advanced Project
22 Pinpoint course. And that course was a week long. We took a
23 deeper dive into the different records we could get from the
24 carriers, so from T-Mobile, Verizon, AT&T and Sprint. And then
25 after I completed that course I took the CAST certification

1 course which was four weeks. The first week being
2 radiofrequency theory, so learning how radio waves travel
3 through the air. The second week meeting with the carriers,
4 meeting with their network engineers and their records
5 custodians. The third week focusing on using this piece of
6 equipment that we have that we can take out and drive around a
7 specific cell phone tower and figure out how far that tower
8 reaches. And then the fourth week we did a moot court
9 exercise where we were given a real case that we had to read
10 the records, generate a map, go out, do a drive test and then
11 testify to it in court. And then after that I was certified.
12 And now every year since then from 2017 until 2023 I've
13 attended the CAST recertification course which is a week long,
14 we get together and we have updates on the different
15 technologies. We get updates from all the different carriers
16 and then because we're located in different parts of the
17 country, sometimes different parts of the world, we present
18 case presentations to each other on what we're seeing in our
19 respective areas.

20 Q. Have you testified as an expert in court in the areas of
21 historical call detail records and cellular technology?

22 A. Yes.

23 Q. Approximately how many times?

24 A. Over 140 times.

25 Q. Has any Court ever found that you were not qualified as

1 an expert?

2 A. No.

3 **MS. GROSSI:** Your Honor, the Government would like
4 to offer Mr. Wilde at this time as an expert in the areas of
5 cellular technology, cellular records analysis, cellular
6 mapping, and cellular locating and tracking.

7 **MR. HAWKS:** No objection.

8 **MR. GUILLAUME:** No objection.

9 **THE COURT:** Okay, Mr. Wilde is qualified as an
10 expert in all of those areas: Cellular technology, cellular
11 records and analysis, cellular mapping and cellular locating
12 and tracking.

13 **MS. GROSSI:** Thank you, Your Honor. Your Honor, the
14 Government would like to move the following exhibits into
15 evidence at this time. Exhibits 445 through 447.

16 **THE COURT:** Any issues?

17 **MR. HAWKS:** No, Your Honor.

18 **MR. GUILLAUME:** No, Your Honor.

19 **THE COURT:** Okay, 445, 446 and 447 are in evidence.

20 **BY MS. GROSSI:** Thank you, Your Honor.

21 **BY MS. GROSSI:**

22 Q. Agent Wilde, can you generally explain to the jury and to
23 us how cell phones work?

24 A. Sure. So starting with if my cell phone were to be
25 powered on in this room or in my pocket here, once the phone

1 is powered on, it authenticates with the network. So let's
2 say I have an AT&T phone. It recognizes that AT&T network is
3 out there, it authenticates and then basically what happens is
4 the phone as when it's powered on, it's constantly scanning
5 around it. It's scanning its environment and it's trying to
6 determine the tower, so that physical pole that we see all up
7 and down the interstate or really anywhere. And the sector or
8 the side of that tower that the phone determines is the best
9 signal.

10 That's very much like sitting in the airport waiting on
11 your flight and scrolling through your phone trying to find
12 the best WiFi to connect to. The difference is your phone does
13 that or a phone does that multiple times a second. It's just
14 constantly scanning for the best tower or sector or the side
15 of that tower. And what happens is when I pick up my phone and
16 press the green button and make a phone call, my phone already
17 knows which tower and sector it's going to use because it's
18 already scanned and it's determined which one it's going to
19 use. And then that signal is going to go from my phone to the
20 tower. The tower is going to receive that signal. It's going
21 to go down the wires through a switching system. And then
22 let's say that I'm calling my doctor's office, they have a
23 landline phone. That call is going to go out to the public
24 telephone network and then it's going to be routed to that
25 landline phone in my doctor's office so I can connect that

1 call.

2 Q. Now how do those phone calls look in cellular records
3 that are provided by Verizon, T-Mobile, and other providers?

4 A. They look very much like the old paper phone bill we all
5 got in the mail maybe 10 or 15 years ago. Those records have
6 the date and the time that the calls occurred, they have who
7 called who. So if it's my phone number, they show who I
8 called or who called me. They have the duration, so how long
9 those calls are. The major difference between the paper phone
10 bill we all used to get in the mail and these records is that
11 they have the tower, the cell tower and the sector or the side
12 of that tower that was used to handle that call on those
13 records.

14 Q. And you mentioned a phone call from a wireless phone to a
15 landline. How does it look from a wireless phone calling
16 another wireless phone?

17 A. On the records it looks exactly the same. There's no
18 difference. Now what's going on in the background is if I'm
19 calling another AT&T phone, that phone doesn't have to go out
20 to the public -- that call doesn't have to go out through the
21 public network, it just goes through AT&T's network. If I'm
22 calling a T-Mobile phone, then it goes out to the public
23 telephone network, into the T-Mobile system and then it's
24 routed through on the receiving end.

25 Q. In terms of the records that are provided by the wireless

1 carriers, you mentioned a few things like the phone number
2 that's calling and the tower. Do you see those types of things
3 in the cell phone that's receiving the call?

4 A. Yes, you'll see the same type of record on an incoming
5 call.

6 Q. Now Agent Wilde, at some point were you asked to assist
7 in this case?

8 A. Yes.

9 Q. What type of assistance were you asked to provide in this
10 case?

11 A. I was asked to look at several sets of cell phone records
12 and then map them in comparison to multiple locations and
13 dates and times.

14 Q. And were you also looking at call detail records and
15 putting those in context as well?

16 A. Yes, ma'am.

17 Q. I'd like to show you Exhibit 445. This is a four-page
18 exhibit. Agent Wilde, do you recognize this document?

19 A. I do. I created this document.

20 Q. And is this a timeline of calls from April 4, 2018 to
21 April 7, 2018?

22 A. Yes, it is.

23 Q. Looking at the first column it says "operator name." What
24 does that mean?

25 A. So that's the cell phone carrier that was being used in

1 that call.

2 Q. And then looking at the second column, "phone number,"
3 what's that showing?

4 A. The phone number is the phone number associated with that
5 line of record. So if you look at there, the phone number
6 associated with this line is 301-655-2283.

7 Q. Okay. And now looking at the third column, "target name,"
8 what's that showing?

9 A. So that is the name that the Government provided to me as
10 associated with that telephone number.

11 Q. Now I'm showing you Exhibit 445 on the left side of the
12 screen. I'd like to show you on the right side of the screen
13 Exhibit 338 which has already been admitted into evidence.
14 Looking at the two numbers on Exhibit 445 on the left and
15 Exhibit 338 on the right, are those numbers the same?

16 A. Yes, they are.

17 Q. Staying on Exhibit 338 on the right and looking at the
18 green number that appears in Exhibit 445, are those the same
19 numbers?

20 A. They are.

21 Q. Looking at Exhibit 445 in the red font under OG and then
22 looking now on the right at Exhibit 338, are those the same
23 numbers?

24 A. Yes, they are.

25 Q. Now looking at the right side of the screen and focusing

1 in on Exhibit 289 which has already been admitted into
2 evidence, is the number on Exhibit 289 the same as the blue
3 number shown in Exhibit 445?

4 A. Yes, it is.

5 Q. Now showing you Exhibit 326 on the right, Verizon
6 subscriber records. Is the black in black bold on the left in
7 Exhibit 445 the same phone number as the phone number shown in
8 Exhibit 326?

9 A. Yes, it is.

10 Q. And who is that under in Exhibit 326?

11 A. Taeyan Williams.

12 Q. Looking again at Exhibit 445, there is the next column to
13 the right is called "direction." What's that showing?

14 A. So that shows which way the call was coming. So this call
15 is an incoming text message that means that the call, the text
16 message was received by the phone number ending in 2283 from
17 the phone number ending in 7198.

18 Q. Now looking at the next column, "start date" and "time,"
19 what's that showing?

20 A. That's the start date and time of that call. So that's
21 when that text was received and that's in local time.

22 Q. Looking at the next column, "duration." What is that
23 showing?

24 A. So the duration with a call like a regular phone call
25 it's going to show the duration of that call. With this text

1 message because it's from T-Mobile, they show up as 60
2 seconds, the text messages do.

3 Q. And are all the numbers in that column in seconds?

4 A. Yes.

5 Q. Now looking at the next column, "originating number,"
6 what's that showing?

7 A. That's the number sending the text message.

8 Q. And then "originating name"?

9 A. I didn't have a name to associate with that number, so I
10 just put the number there.

11 Q. And then the next column, "terminating number," what's
12 that showing?

13 A. That's the number receiving the text message.

14 Q. And then looking at "terminating name," what is that
15 showing?

16 A. That's the name associated with the number ending in
17 2283.

18 Q. And then looking at the last column, "call type." What's
19 that showing?

20 A. SMS is a text message.

21 Q. I've blown up a portion of this Exhibit 445. And looking
22 specifically at the red phone number that's listed as "OG" and
23 looking at who it is communicating with, do you see who it is
24 frequently communicating with on this screen?

25 A. I do. It's communicating with the green number ending in

1 3782 associated with Patti Chaplin.

2 Q. And looking at this same time period, does Ms. Patti
3 Chaplin communicate with the yellow phone number shown on
4 Exhibit 445?

5 A. Yes.

6 Q. Where is that showing the communication?

7 A. I'm sorry, that's no. I don't see it on there.

8 Q. Okay. Turning to page 2 of this exhibit, I focused in on
9 a time period of April 5, 2018 at 8:18:16 p.m. to April 6,
10 2018 at 2:45 a.m. Do you see that?

11 A. Yes, ma'am.

12 Q. The April 5, 2018, 8:32 p.m. call, who is that from and
13 to?

14 A. That's from Taeyan Williams to the OG phone.

15 Q. And what type of call was it?

16 A. It's a voice call and it's 27 seconds long.

17 Q. Now looking at the April 5, 2018, 10:45 p.m. call. Do you
18 see that?

19 A. I do.

20 Q. Who is that call to and from?

21 A. That one is from the Noah Smothers phone ending in 9327
22 and it is to the 443-873-9427 number.

23 Q. And then looking at the April 5, 2018, 11:19 p.m. call,
24 who is that call to and from?

25 A. That one is from 443-562-1083 and to the Noah Smothers

1 phone ending in 9327. I'm sorry, did I miss that one? At 2:45
2 a.m. Is that what you're referring to?

3 Q. That's the next call I was going to ask you about. So
4 looking at that call, who is that call to and from?

5 A. That one is from the Noah Smothers phone ending in 9327
6 to 443-873-9427.

7 Q. Blowing up another portion of this call, now looking at
8 the April 6, 3:19 a.m. call. Again, who is this to and from?

9 A. So this one is from 443-562-1083 and to the Noah Smothers
10 phone ending in 9327.

11 Q. Okay. Now looking in the middle of the screen, April 6,
12 2018 at 11:20 a.m., what's that -- who is that call to and
13 from?

14 A. That one is from 607-725-3718 and it is to the Noah
15 Smothers phone ending in 9327.

16 Q. What's the duration of that call?

17 A. It's 19 seconds.

18 Q. And looking at these records and the records you received
19 in this case, is there anything significant about this call?

20 A. I believe that's the last -- that's one of the last
21 incoming calls with duration.

22 Q. To who?

23 A. To Noah Smothers.

24 Q. Now looking on the last line there, April 6, 2018 at 1:37
25 p.m. Who is that call to and from?

1 A. That one is from the OG phone ending in 6897 to the
2 Taeyan Williams phone ending in 1855.

3 Q. Now looking at the third page and blowing up a portion of
4 Exhibit 445, on April 6, 2018 at 1:41 p.m. there's a number of
5 entries. There's four rows there. What's happening with these
6 calls?

7 A. So the first one, it's an incoming call from 202-883-1393
8 to the Scott Williams phone. The next line is that same call
9 going to voicemail. Then after that there are three text
10 messages, one from 128 which is like a T-Mobile, it's like a
11 T-Mobile short message code, and then the other two are from
12 that same thing. So the phone is receiving some kind of
13 notification.

14 Q. And so when you say a "short message code," what do you
15 mean by that?

16 A. Well, the carrier leaves a short SMS code, like 128 or
17 there's some other ones out there. All it's showing is when
18 the phone is receiving some kind of notification whether it be
19 from Facebook or some other application, or your voicemail
20 letting you know that you have a voicemail.

21 Q. Now looking at the bottom two rows there, April 6, 2018
22 at 6:37 p.m., there's two entries for that exact same time.
23 Can you tell us what's happening on those calls?

24 A. Yeah, so this is an incoming call to Noah Smothers' phone
25 at 9327. Likely it's routed, so it's being moved between two

switches and so it just shows up as a duplicate.

Q. And what's the duration of that call?

A. 0 seconds.

Q. And so when it says "0 seconds," what does that mean?

A. It means it wasn't a connected call.

Q. I've blown up another portion of this Exhibit 445. So looking at April 6, 2018 at 6:46 p.m., who is that call to and from?

A. That call is from Patti Chaplin to the OG phone and the duration is 65 seconds, so a minute and 5 seconds long.

Q. And when there's a minute -- sorry, 65 seconds, what does that mean to you?

A. It means it was a connected call.

Q. Looking at the next line there, who is that to and from at April 6, 2018 at 7:06 p.m?

A. That one is from Taeyan Williams to the OG phone and it's 16 seconds long.

Q. Now looking at April 6, 2018 at 7:36 p.m., what is that call to and from?

A. Again, Taeyan Williams on the OG phone and it's 77 seconds long.

Q. When you see 77 seconds, what does it mean to you?

A. It shows to me that it was a connected call.

Q. Looking at the next line, April 6, 2018 at 7:46 p.m., what's that call showing?

1 A. That one is from the OG phone to Taeyan Williams and it's
2 12 seconds long.

3 Q. Going down to April 6, 2018 at 10:07 p.m., what's that
4 call to and from?

5 A. The OG phone to Taeyan Williams and it's 31 seconds long.

6 Q. And looking at the 10:37 p.m. April 6th call, what's that
7 call?

8 A. The OG phone to Taeyan Williams and it's 7 seconds long.

9 Q. And then looking at that last line there, it's an April
10 6, 2018 call at 11:56 p.m. What's that call?

11 A. That one is from the OG phone to Scott Williams ending in
12 2283 and it's zero seconds.

13 Q. And what does that mean when there's zero seconds there
14 again?

15 A. It's not completed.

16 Q. I've blown up one call in particular here on the screen.
17 Can you tell us about this call?

18 A. This one is at 2:27 a.m. on April 7, 2018. It's from
19 Patti Chaplin to the OG phone and it's five seconds long.

20 Q. And when it's five seconds, what does that mean?

21 A. It could just be the ring time is five seconds or it
22 could be a five second -- it could be answered and be five
23 seconds.

24 Q. Now I've blown up another portion of this exhibit. Is
25 there a gap in activity -- I'm sorry, I'm going to go back

1 here. Blowing up April 6, 2018 from 10:37 p.m. through April
2 7, 2018 through 4:07 p.m. and I'd like you to look
3 specifically at the time period from April 6, 2018, 10:37 p.m.
4 to April 7th at 12:58 p.m. Are there any calls between that
5 time period that were either from or to Taeyan Williams?

6 A. Between 10:37 p.m? There's one at 10:37 p.m. on the 6th
7 that's seven seconds long to Taeyan Williams. And then the
8 next one after that is at 12:58 p.m. on the 7th, so the next
9 afternoon from Taeyan Williams to that 516 number.

10 Q. Now focusing in on the Scott Williams phone ending in
11 2283, looking first at April 6, 2018 at 11:56 p.m., and then
12 looking again at April 7th at 12:54 p.m., are there any calls
13 between that time period on that phone?

14 A. No, there are not.

15 Q. I'd like to show you now Exhibit 446. Do you recognize
16 this exhibit?

17 A. I do. This is the report I generated for this case.

18 Q. And are these -- what's listed on this first slide?

19 A. Listed on the first slide is my name, where I work, the
20 telephone numbers that I analyzed and the date that I
21 completed the last report.

22 Q. And what did you do with these phone numbers?

23 A. So what I do with the phone numbers is I take the
24 records, I put them in a Google based mapping system and I go
25 in and I map out where the towers and sectors are located that

1 the phone is using. And then I make an assessment of whether
2 that's consistent or inconsistent with being in the area of a
3 specific -- or being near a specific date at a date and time.

4 Q. And did we just see these phone numbers on that prior
5 exhibit in the call timeline?

6 A. Yes.

7 Q. I'd like to show you page 2 of this exhibit. What's this
8 page 2 showing?

9 A. So page 2 is the background. So the first one, first
10 point is that I was requested by the Maryland State Police to
11 assist with this case. My methodology is that I analyzed the
12 call detail records. They document the interaction between the
13 phone and the network. Then used in combination with a list of
14 cell towers I can come up with a general area where the phone
15 was located at the time that those calls occurred; the tower
16 list, cell site locations. So I use a tower list in effect at
17 the time of the crime or the time of the incident and then my
18 conclusions are further down in my analysis.

19 Q. Looking at page 3, what is this showing?

20 A. Page 3 just shows some general cell tower examples.

21 Drawing your attention to the one on the top left-hand side,
22 that's a basic cell phone tower really you see anywhere in
23 America and there's a couple important things about that.

24 Number one, the speaker-looking devices that hang on that
25 tower, those are the antennas that transmit and receive the

1 signal to and from the phone. A phone is very similar to a car
2 radio. So as I drove here today I tuned to my favorite
3 frequency or my favorite station and somewhere in this area
4 there's a radio tower that emits a signal and my car radio can
5 receive that signal. The major difference between my car radio
6 and my cell phone is that my cell phone has to be able to
7 receive that signal, but I also have to be able to send that
8 information back to the tower. So those are the antennas that
9 transmit and receive the signal.

10 The second important thing about that tower is you'll
11 notice that those antennas hang on a triangular shaped
12 structure. So they're designed to cover 360 degrees and put
13 coverage out or signal out in 360 degrees. And the way they do
14 that is by breaking that tower into three sides.

15 Q. Now looking at page 4 of your report, what is this
16 showing?

17 A. So this shows how -- this is about sectors and
18 orientation. So you might hear me say something like "azimuth"
19 or "orientation." Those are just two big scary words for
20 direction. The way I know which way a sector faces is by
21 looking at the records and looking at the tower list. It will
22 tell me "Hey, tower number 2, sector 1 faces at zero degrees."
23 What that means is that tower, that side of the triangle faces
24 north. It's as simple as that.

25 Q. Now looking at page 5, what's this showing?

1 A. So here, this is how I display the -- this is how I
2 display the sector on a map. I use this wedge shape. So again,
3 I'm trying to display one-third of that circle because there's
4 usually three sectors on each tower. So what I do is if the
5 azimuth is zero, I draw a line at zero or north. Then I go 60
6 degrees in one direction, 60 degrees in the other direction
7 and that gives me one-third of that circle. And then I use
8 this little shaded area kind of in the middle. That shaded
9 area, the phone can be within that shaded area, but it doesn't
10 have to be. That's just demonstrating which way the energy is
11 being emitted from that tower. It is like me sitting on the
12 stand and shining a flashlight towards the back of the room.
13 Somebody could be right in the front using that light or
14 somebody could be in the back of the room using that light as
15 well.

16 Q. Now looking at page 6. What's that showing?

17 A. Page 6 shows how I display the sector on the page. So
18 those little green dots, those are the towers that are in the
19 area. And then again, the red wedge shows the tower and the
20 sector that's being used at that time.

21 Q. Now looking at page 7, what is this showing?

22 A. So there's two types of records in this case. One are
23 just regular call detail records. Those are going to show the
24 -- they give me the tower and the sector that's being used to
25 handle the call. The other type of records are called RTT

1 records or timing advance records. And what they provide is
2 the tower, the sector, and then an estimated distance between
3 the phone and the tower. And so the way they do that is the
4 phone carriers, they know how fast the signals travel. They
5 travel with the speed of light. So what they do is they time
6 the time it takes for that signal to go from the tower, to the
7 phone, and then back to the tower. And there they can because
8 they know the time and they know the speed, they can estimate
9 the distance. And so they provide us these records and it
10 gives you an estimated area of where the phone is located.

11 Q. So to be clear, what is this red circle here? And I'm
12 circling it on the exhibit.

13 A. So that band or that arc, that represents the estimated
14 distance to the phone from the tower.

15 Q. Now looking at page 8, what is this showing?

16 A. So page 8 is an overview. This is showing the Verizon
17 cell phone towers which are all those red dots all over the
18 page and then it shows all the relevant addresses in the case.
19 So starting with the red address is 10301 Bristolwood Court,
20 that's down on the bottom left-hand side of the page. And the
21 red Google pin.

22 Next is 8522 Washington Boulevard in Jessup which is
23 represented by that green pin there kind of in the center
24 bottom of the map.

25 Next is 5006 Windsor Mill Road in Baltimore which is

1 represented by that dark blue pin in the top left and side or
2 top center of the map.

3 Next is 651 Bankard Lane in Baltimore which is the orange
4 pin in the center kind of top of the map near Baltimore City.

5 And then finally, the 12525 Laurel Bowie Road is the
6 light blue pin down there by the red pin in Laurel.

7 Q. Now showing you page 9, it looks like it's the same
8 locations, but what is this showing?

9 A. This is the same locations. The only difference is I'm
10 showing the difference between the Verizon network and the
11 T-Mobile network which is represented by those green dots.

12 Q. And so does T-Mobile and Verizon have different towers?

13 A. Yes. Sometimes they share -- they might share a pole on
14 a tower, they might share equipment, they might share a tower
15 and sometimes they might have their own tower, so I just like
16 to show both.

17 Q. Now looking at page 10, what is this showing?

18 A. So this is showing activity on this 607-725-9327 phone
19 which is the Noah Smothers phone on March 27, 2018 between
20 9:42 and 11:01 a.m. And during those times that phone made
21 and received telephone calls using towers in the area of
22 Morgantown, West Virginia.

23 Q. And now looking at page 11, what is this showing?

24 A. So page 11 shows travel between Morgantown, West Virginia
25 and Binghamton, New York starting on March 27, 2018 at 11:01

1 a.m. and winding back in Binghamton on 11:02 p.m. on March
2 29th.

3 Q. Looking at page 12 which has the same date, March 29,
4 2018, what is this showing?

5 A. This is showing the activity on the Scott Williams phone
6 ending 2238. At 12:44 p.m. on March 29th that phone is using a
7 tower and sector consistent with being in the area of
8 Bristolwood Court in Laurel.

9 Q. Now looking at page 13 which is staying on the same date,
10 March 29, 2018, what is this showing?

11 A. This is showing travel between 12:44 p.m. and 7:19 p.m.
12 between Laurel, Maryland and Morgantown, West Virginia.

13 Q. Now showing you page 14, what is this showing?

14 A. This is showing activity on the Taeyan Williams phone and
15 the Scott Williams phone on March 29th in the area of
16 Morgantown, West Virginia. Taeyan has a call at 5:00 over
17 there kind of on the left side of the page in black and then
18 the Scott Williams phone has calls at 7:19 p.m. on the right
19 side of the page.

20 Q. Now looking at page 15, what is this showing?

21 A. This is showing March 30th or I'm sorry, March 29th,
22 10:55 p.m. through March 30th at 9:10 a.m. And now both of
23 those phones are back in the area of Bristolwood Court.

24 Q. Now turning to page 16, back at the other phone number,
25 what is this showing?

1 A. So this one is showing travel from Binghamton, New York
2 on April 5th between 12:43 a.m. and 10:45 p.m. This phone,
3 Noah Smothers' phone travels between Binghamton, New York and
4 Baltimore, Maryland arriving around 10:45 p.m.

5 Q. Looking at page 17, what is this showing?

6 A. So first off looking at the calls, there's calls on April
7 5th at 10:45 and 11:19 p.m., and then April 6th at 11:20 a.m.
8 and that phone is using a tower and sector facing towards the
9 651 Bankard Lane address. And then those little blue pins, so
10 GS-1, 2 and 3, those represent searches that were made on Noah
11 Smothers' Google account between 7:42 p.m. on April 5th and
12 6:49 a.m. on April 6th.

13 Q. And what was the text of those searches?

14 A. "Food near me," "Forno," "food near me," "food near me"
15 and then "breakfast near me."

16 Q. Now showing you page 18 of this exhibit, what's this
17 showing?

18 A. So this is showing on April 6th between 12:54 p.m. and
19 1:05 p.m., these are Google history locations from Noah
20 Smothers' phone. Starting at 12:54 p.m. and 1:00 p.m. at GS4
21 which is down there just north of the Bristolwood Court
22 address there's searches for "food near me" and "Pupuseria
23 near me." Then at 1:00 on GS5 there's searches for "Pupuseria
24 Taqueria food truck," "Pupuseria Taqueria" and then at 1:05 on
25 GS6 which is kind of up there towards the green pin, "Martin's

1 Total Seasoning." And then on GS7, "Martin's Total Seasoning
2 food truck" which is very close to the 8522 Washington
3 Boulevard address.

4 Q. And do you know what that 8522 Washington Boulevard,
5 Jessup, Maryland address is?

6 A. I do. It's the EZ Storage.

7 Q. And where is that EZ Storage facility located in terms of
8 the street that it's on on this map?

9 A. It's located on the right -- on the right side, so on the
10 east side of Highway 1.

11 Q. Now looking at page 19, what is this showing?

12 A. This is showing a camera or photo stills from the EZ
13 Storage at 1:07:58 and 1:21:27 p.m. And you can see that dark
14 gray or the gray sedan pulling into the gate on the left-hand
15 side at 1:07:58 and then pulling out of the gate at 1:21:27.

16 Q. Now looking at page 20, what's this showing?

17 A. So this is showing 1:21:55 and 1:21:56. And you can see
18 that same gray sedan has come out of the gate and is making a
19 left turn, which would place it going southbound on Highway 1.

20 Q. Now looking at page 21, what's this showing?

21 A. So this is showing, again, Noah Smothers' phone activity.
22 This is showing those RTT records. So it's showing those
23 records at 2:03 p.m. and 3:12 p.m. So at 2:03 p.m. that phone
24 is using that tower 106251, at an access, its distance of 2.8
25 miles. So the phone I would expect it would be somewhere in

1 that band during that time or just slightly inward. And then
2 at 3:12 p.m. that phone is using tower 106003 which is the one
3 that faces to the east and it's using that at 1.45 miles. So
4 if the phone was stationary during that time I would expect to
5 find it right where those arcs overlap which is consistent
6 with being in the area of Bristolwood Court during that time.

7 Q. Can you circle on the exhibit in front of you where they
8 overlap?

9 A. (Indicating.)

10 Q. Also on this exhibit is this GS8. What's that?

11 A. That's another search for "food near me" at 1:32 p.m.
12 which is the GS8 which is right next to the 12525 Laurel Bowie
13 Road in Laurel, Maryland.

14 Q. There's also a note at the bottom of this screen above
15 that GS8 and I'm going to circle it on the screen. What is
16 this?

17 A. So that's a note, that's a note that was in -- I believe
18 in Noah Smothers' phone at -- or from his Google search at
19 4/6/2018 at 1:52 p.m. and it says "Tae gave 59 plus four WGS."

20 Q. Now does that slide include Taeyan Williams' phone or
21 Scott Williams' phone?

22 A. It does not.

23 Q. So is this just related to Noah Smothers' phone?

24 A. Yes.

25 Q. And can you explain this RTT data that we're seeing in

1 this band, does that mean that Noah Smothers was using his
2 phone at that time?

3 A. It means his phone was on. It doesn't -- the phone
4 doesn't -- he doesn't have to be making any phone calls or
5 sending any text messages. This is just data that's being
6 collected in the background for engineering purposes. So the
7 phone has to be powered on for this information to be
8 received, but nobody has to be actively making phone calls or
9 receiving phone calls for this data to be generated.

10 Q. And, in fact, is this phone call making any active calls
11 or receiving any active calls?

12 A. No, it is not.

13 Q. Now looking at slide 22, what's this showing?

14 A. So this is showing activity on Taeyan Williams' phone
15 between March 29th and April 8th and it's showing the most
16 commonly used towers during that time period. So the most
17 commonly used tower during that time period was 106254 which
18 is this tower that's closest to Bristolwood Court. And then
19 the second most common tower used is this one at the top
20 facing down towards Bristolwood Court, and there's 12 calls on
21 that tower and sector.

22 Q. And if someone was at this Bristolwood Court address
23 would they be using both towers or just one?

24 A. I'd expect them to use the one closest to it, but it's
25 not -- depending on where the person is in the house or in the

1 residence, it's not impossible. I wouldn't say it's
2 impossible for it to use the one that's slightly further away.

3 Q. Now looking at slide 23, what's this showing?

4 A. So this is showing Scott Williams' and Taeyan Williams'
5 -- or Taeyan Williams' phone on April 5th between 3:00 and
6 6:27 p.m. and then 6:13 and 10:33 p.m. So between 3:00 and
7 6:27, Scott Williams has three calls using the tower and
8 sector closest to the Bristolwood Court address. Between 6:13
9 and 8:32 p.m., Taeyan Williams has a call on tower 106254,
10 three calls, again using the tower and sector consistent with
11 being in Bristolwood Court. And then at 10:33 p.m. there's
12 one call on 106255 which is this top tower which is further up
13 into Laurel.

14 Q. Now looking at slide 24, what's this showing?

15 A. This is showing April 6th on Taeyan Williams' phone
16 between 6:13 and 8:26 using the tower and sector consistent
17 with being in the area of Bristolwood Court.

18 Q. Now showing you page 25. What is this showing?

19 A. This is combining Taeyan Williams, Scott Williams, and
20 then the Google search history from Noah Smothers. So going to
21 -- starting with Taeyan Williams, there are calls at 11:24,
22 1:24 p.m. and 1:37 p.m. on these two towers up here at the top
23 of the page. And then Scott Williams, he's got calls at
24 between 12:21, I think it goes 12:21 which is at the bottom of
25 the page facing Bristolwood Court, then it goes to 1:41 and

1 1:42 which are using these two towers I'm circling here that
2 are close to this GSA point, and then back to the bottom tower
3 at 2:04 to 3:27 p.m.

4 Q. And using the screen in front of you, can you show the
5 movement of Scott Williams' phone during this time period?

6 A. Yeah. So it starts, it starts down here at this tower
7 near Bristolwood. Then it goes up into this area probably
8 between these two towers at 1:41 and 1:42 and then it comes
9 back down into the area around Bristolwood.

10 Q. Now looking at the 1:37 p.m. call that was happening on
11 Taeyan Williams' phone at the top up here, who is that call
12 from?

13 A. That call is from 929-290-6897, and that 1:37 that's up
14 at the top of the screen.

15 Q. And was that the OG phone that we saw in the prior
16 exhibit?

17 A. Yes, it was.

18 Q. Now looking at slide 26 or page 26, what's this showing?

19 A. So this is combining all of those previous calls, the
20 previous calls we just talked about with Scott Williams and
21 Taeyan Williams. And then adding in the RTT data from the Noah
22 Smothers phone, as well as the GS it looks like the GS4
23 activity there in the center of the page at 1:32 p.m.--
24 sorry, GS8 at 1:32 p.m.

25 Q. Also in this slide there's another additional location in

1 teal. Do you see that?

2 A. I do.

3 Q. Where is that?

4 A. That is at 12525 Laurel Bowie Road which I believe is the
5 Red Roof Inn.

6 Q. And that teal pin mark, is that close to the Google
7 search at GS8?

8 A. Yes, it's basically right on top of it.

9 Q. And is it also close to the 1:41 p.m. activity that's
10 happening on Scott Williams' phone?

11 A. It is.

12 Q. Now looking at slide 27 or page 27, what's this a picture
13 of?

14 A. So this picture is showing -- this is a snip from an Uber
15 trip by Taeyan Williams between 3:59 and 4:37 p.m. That Uber
16 trip is from 10303 Bristolwood Court to 10400 Cross Fox Lane
17 in Columbia, Maryland.

18 Q. And focusing on what appears to be text messages at the
19 bottom of the screen and I'm circling it on the screen, what's
20 that showing?

21 A. It's a text message that says, "got your pens." The time
22 there is 4/6/2018 at 8:04 p.m., but that's UTC time so we have
23 to subtract four hours. So this actually happened at 4:04
24 p.m.

25 Q. And is that happening during this Uber ride according to

1 the Uber records?

2 A. Yes, ma'am.

3 Q. Now looking at slide 28. What's this showing?

4 A. This is showing travel on the Taeyan Williams phone
5 between 7:06 and 9:10 p.m. During that time the phone moves
6 south from Jessup, down towards Greenbelt and basically around
7 the Beltway ending up in Tysons Corner.

8 Q. Okay. And there's something at the top of this page
9 that's in blue. What's that showing?

10 A. It's showing a note. And the body of the note is so
11 again, this is at 11:17:25 p.m. in UTC, so 7:17 p.m. And it's
12 showing that the title and the body of the note is 8255
13 Washington Boulevard which again, is the EZ Storage in Jessup.

14 Q. And showing us on the exhibit, what's the direction that
15 this phone is going starting at 7:06 p.m?

16 A. So it travels south down here to Baltimore Washington
17 Parkway and 495, then around the Beltway and then winding up
18 down on the bottom left-hand side of the page.

19 Q. Can you circle on this screen when this phone received
20 calls from the 929 OG number?

21 A. Yep, so 7:06, 7:36:50 and 7:46:48.

22 Q. Now looking at slide 29, what's this showing?

23 A. This is the Taeyan Williams phone between 8:57 p.m. and
24 9:10 p.m. on the 6th. And all that activity is consistent
25 with being in the area of Tysons Corner, Virginia.

1 Q. Now showing you page 30. What's this showing?

2 A. 9:16 p.m. through 9:53 p.m. There's another Uber trip
3 going from 1707 International Drive in Tysons, Virginia to
4 4603 Knox Road in College Park.

5 Q. Now showing you page 31. What's this showing?

6 A. So page 31 shows activity at 10:07 and 10:37 on the
7 Taeyan Williams phone. In the blue, the dark blue pin there
8 represents 4603 Knox Road in College Park. And then both of
9 those calls were from the OG phone to Taeyan Williams' phone.

10 Q. And looking at this map and I'm just circling a portion
11 of this map, where is this phone generally located?

12 A. Near the University of Maryland.

13 Q. Now looking at page 32. What's this showing?

14 A. Page 32 shows the Scott Williams phone ending in 2283 at
15 4:46 p.m. on April 6th. During that time that phone is down
16 off the Baltimore Washington Parkway near Bladensburg,
17 Maryland.

18 Q. Now looking at page 33. What's this showing?

19 A. So this is showing activity on Scott Williams' phone
20 between 7:15 p.m. and 11:56 p.m. There it's using a tower and
21 sector consistent with being in the area of Bristolwood Court
22 and then there's also an internet search that was done on the
23 computer at 7:59 p.m. for "EZ Storage Jessup." And then at the
24 top there's notes again with a series of numbers ending in
25 kiphone 64171.

1 Q. And when is that note created?

2 A. That noted created at 11:57 p.m. on April 6th.

3 Q. Now looking at page 34, what's this showing?

4 A. So page 34 starting on the left-hand side is showing that
5 gray four-door small SUV sedan. Looks to be the same one from
6 the EZ Storage pulling into the parking lot of 5006 Windsor
7 Mill Road in Baltimore, the Windsor Mill Apartment complex at
8 4:38 a.m. on April 7, 2018. And it's followed by a four-door
9 silver sedan, four-door car. And then at 4:44 a.m. that silver
10 sedan is pulling out of the apartment complex and then at the
11 bottom I believe that's a license plate reader at 4:44:47.

12 Q. Now looking at page 35, what's this showing?

13 A. This is showing April 6th at 11:57 p.m. through April 7th
14 at 12:53 p.m. And there's no cell site activity on either the
15 Taeyan Williams phone or the Scott Williams phone during that
16 time period.

17 Q. And if there's no cell site activity can you make any
18 conclusions about what's happening with those phones?

19 A. Well, either the phones did not receive, make or receive
20 any incoming or outgoing calls or the phones were off the
21 network.

22 Q. What does it mean to be "off the network"?

23 A. Well, they could be powered off, the phones could be in
24 airplane mode, or they could be somewhere where they're not
25 receiving service.

1 Q. Now looking at slide 36, what's this showing?

2 A. Slide 36 shows the Scott Williams and Taeyan Williams
3 phones on April 7th between 12:58 and 7:11 p.m. for Taeyan
4 Williams. Basically he's all around the Laurel address near
5 Bristolwood Court. And then Scott Williams between 12:54 and
6 2:03 p.m. he's using the tower and sector consistent with
7 being in the area of Bristolwood Court.

8 Q. Now showing you page 37, what's this showing?

9 A. Page 37 shows another Uber trip for Taeyan Williams
10 between 7:15 p.m. and 8 p.m. on April 7th between Bristolwood
11 Court and Tysons Corner, Virginia.

12 Q. Now looking at slide 38. What's this showing?

13 A. 10:00 p.m. on the Taeyan Williams phone in the area of
14 Tysons Corner, Virginia.

15 Q. Now looking at page 39, what's that showing?

16 A. This is showing another Uber trip for Taeyan Williams
17 between 10:07 p.m. and 10:44 p.m. on April 7th. During the
18 time that account moved from Tysons Corner, Virginia towards
19 Bristolwood Court in Maryland.

20 Q. Now looking at page 40, what's that showing?

21 A. 11:14 p.m. on April 7th through 12:19 a.m. on April 8th
22 and this is the Taeyan Williams phone showing activations in
23 the area of Bristolwood Court.

24 Q. And I am circling a call at 11:14 p.m. What's that call?
25 Who is that call to and from?

1 A. That's a call from the OG phone to the Taeyan Williams
2 phone and it's 57 seconds long.

3 Q. Now looking at page 41. What's this showing?

4 A. So page 41 looks like a cancelled Uber trip from
5 Baltimore Washington Parkway in Laurel, to Bristolwood Court
6 in Laurel at 12:10 a.m. on the 8th.

7 Q. Now looking at page 42, what's this showing?

8 A. Page 42 shows another Uber ride on the Taeyan Williams
9 account between 12:41 a.m. leaving Bristolwood Court and at
10 12:59 a.m. arriving at 5007 Jackson Street in Hyattsville,
11 Maryland.

12 Q. Now looking at page 43, what's this showing?

13 A. This is showing the activity at 2:30 a.m. on April 8th on
14 the Taeyan Williams phone showing activity. It's just using a
15 tower just to the west of Jackson Street in Hyattsville.

16 Q. And that address, was that the same address as the Uber
17 receipt on page 42?

18 A. Yes, ma'am.

19 Q. Now showing page 44, what's this showing?

20 A. 2:31 a.m. to 2:49 a.m., the Taeyan Williams Uber account
21 shows travel from Jackson Street in Hyattsville to Bristolwood
22 Court in Laurel.

23 Q. Now looking at page 45. What's this showing?

24 A. So page 45 is showing the Scott Williams phone on the 7th
25 of April at 9:53:19 p.m. During that time that phone is using

1 a tower and sector near Cheverly, Bladensburg, Maryland and
2 then at the top there's an excerpt from the EZ Storage entry
3 logs showing that at 9:05 p.m., Noah Smothers, I think his pin
4 or his code was used to access that area.

5 Q. And do you know how long it would take to drive from this
6 location in Jessup, Maryland to the location down in Cheverly?

7 **MR. HAWKS:** Objection.

8 **THE COURT:** Sustained as to foundation.

9 **BY MS. GROSSI:**

10 Q. Agent Wilde, how long were you a special agent in the
11 Maryland area?

12 A. 10 years.

13 Q. And during your time in the Maryland area, did you become
14 familiar with the areas of Maryland close to the DC border?

15 A. I used to work right there where it says "Cheverly." We
16 have an office there near Prince George's Hospital. I used to
17 work right there and then I used to live in Columbia, Maryland
18 so north of Jessup.

19 Q. And are you familiar with this area and the route you
20 would take from Jessup, Maryland down to Cheverly?

21 A. Yes, ma'am.

22 Q. And when you say you have an office, does the FBI have an
23 office down in Cheverly?

24 A. Yes.

25 Q. So looking at these two locations up here in Jessup,

1 Maryland and down in Cheverly, do you know how long it would
2 take to drive between those two?

3 A. Probably 25 to 30 minutes.

4 Q. Does that depends on traffic?

5 A. Of course it does. But at 9:00, 10:00 at night there's
6 usually not too much traffic between those two points.

7 Q. Now looking at page 46, what is this showing?

8 A. So this is showing activity on Scott Williams' phone
9 between 1:44 p.m. and 6:49 p.m. on April 8th. During that time
10 that phone is using a tower and sector consistent with being
11 in the area of Bristolwood Court. Also up at the top there's
12 the excerpt from the logs at the EZ Storage showing activity
13 between 8:33 -- 8:30 and 8:33 p.m. on that same date.

14 Q. And the location of the phone, what's the timeline for
15 where the location of the phone was?

16 A. So there's a call at 1:44 p.m., 1:51 p.m., and 6:49 p.m.

17 Q. Now looking at page 47. What's this showing?

18 A. This shows the activity on the Taeyan Williams phone on
19 April 8, 2018 between 5 p.m. and 11:22 p.m. So at 5:10 p.m.
20 that phone is in the area of Laurel, Maryland. And then
21 around 11:22 p.m. it's near Morgantown, West Virginia.

22 Q. And as part of this case were you also asked to plot the
23 location data associated with Ms. Chaplin?

24 A. Yes.

25 Q. I'd like to show you page 48. What's this page show, page

1 48?

2 A. This is showing April 5th, 11:12 p.m. through April 6th
3 at 10:05 a.m. for Ms. Chaplin's number. And during that time
4 that phone is using towers first up in the main part of Laurel
5 down where 1 and 198 intersect, and then at 11:12 p.m. using a
6 tower and sector more towards the Bristolwood Court, but not
7 one that covers Bristolwood Court.

8 Q. And looking specifically at this 11:12 call as well as
9 the 10:05 call up here, who is that call to and from?

10 A. Those calls are both with the OG phone, that 929 number.
11 The 10:05 call was not -- has zero duration, so I don't
12 believe it was connected, but the other one had a 32 seconds
13 duration so it was probably a short call.

14 Q. Now looking at page 49, what's this showing?

15 A. This shows April 6th between 12:16 p.m. and 6:32 p.m.
16 the Patti Chaplin phone is in the area of Fed Ex field and the
17 Prince George's Sports Complex during that time.

18 Q. And is that in Laurel, Maryland?

19 A. It is not. This is down by Largo or Landover, Maryland.

20 Q. Now looking at the 6:32 p.m. call here shown on the
21 screen that I've circled, who is that call to and from?

22 A. That call is from this number, so from the Patti Chaplin
23 phone to the OG phone and it's nine seconds long.

24 Q. Now looking at page 50. What's this showing?

25 A. Page 50 is showing the 3782 phone, again at 6:46 p.m.

1 That phone there is near Lanham and Seabrook. So just outside
2 the Beltway there in Prince George's County. And that call at
3 6:46 is from Patti Chaplin's phone to the OG phone and it's 65
4 seconds long, so about a minute and five seconds.

5 Q. And now looking at Page 51. What's this showing?

6 A. Page 51 shows the activity between April 6th at 8:19 p.m.
7 to April 7th at 10:00 p.m. Starting with April 6th, the calls
8 at 8:19 and 10:11 p.m., that phone is using a tower and sector
9 consistent with being near Bristolwood Court. And then going
10 on to 2:27 a.m., again using the same tower and sector. Then
11 moving over to the tower on the top left at 2:09 and 4:07
12 p.m., and then back to the tower in the area of Bristolwood
13 Court between 5:30 p.m. and 10:00 p.m. And then we have
14 multiple calls at 2:27, 4:07 and 10:06 between this phone and
15 the OG phone. One being at 2:27, five seconds long; at 4:07,
16 57 seconds long; and 10:00 at 22 seconds long.

17 Q. Now focusing in at that 2:27 p.m. call, is that a 2:27
18 p.m. or 2:27 a.m. in looking at this screen and then looking
19 at this?

20 A. It looks to be 2:27 a.m.

21 Q. So it's accurate as to the tower?

22 A. Yes.

23 Q. Now did you prepare another slide deck associated with
24 another phone number in this case?

25 A. I did.

1 Q. Showing you Exhibit 447. Do you recognize this?

2 A. I do. This is the report I generated for 301-538-5546
3 which is service by T-Mobile.

4 Q. Now looking at Exhibit 447 and then comparing it to
5 Exhibit 395. And specifically, contact 8 on that, are those
6 the same phone numbers between Exhibit 447 and 395?

7 A. Yes.

8 Q. And who is the contact listed there for record 8?

9 A. It says Ricky Carty, C-a-r-t-y.

10 Q. Looking back at Exhibit 447, it's a seven-page exhibit.
11 And do the first few pages relate to the same slides we talked
12 about in the prior exhibit?

13 A. Yes, ma'am, they do.

14 Q. So forwarding to page 7 of this exhibit, what's this
15 showing?

16 A. This is showing activity on that device between April 5,
17 2018 between 10:20 p.m. and 10:53 p.m. showing that the device
18 is in New Jersey. And then I did an analysis of all the data
19 on those records and between all activity between April 5,
20 2018, 10:56 p.m. through April 8, 2018 at 5:03 p.m. All that
21 activity within that device was in the state of New Jersey.

22 **MS. GROSSI:** Thank you. No further questions.

23 **THE COURT:** Okay. Cross-examination?

24 **MR. GUILLAUME:** Yes, Your Honor.

25 **C R O S S - E X A M I N A T I O N**

1 **BY MR. GUILLAUME:**

2 Q. Good morning, Agent Wilde.

3 A. Good morning. How are you?

4 Q. Thank you. Court's brief indulgence, Your Honor?

5 **THE COURT:** Sure.

6 **BY MR. GUILLAUME:**

7 Q. Agent Wilde, I just want to ask you a couple questions to
8 make sure I'm understanding things correctly. With respect to
9 any cell phone use in general, if you have a cell phone on an
10 established network such as T-Mobile, Verizon, AT&T, that
11 phone is going to use a particular cell tower, correct?

12 A. Correct.

13 Q. Okay. And there's a record of that use on -- that's left
14 behind I guess; is that right?

15 A. There is. It's kept for billing purposes and engineering
16 purposes. But yeah, there's a record of that created so they
17 know how much to bill us all at the end of the month.

18 Q. So my example I gave I guess is from one phone calling
19 another phone, but what about if I'm using an application to
20 make a call such as WhatsApp. Are you familiar with WhatsApp?

21 A. Oh, yeah.

22 Q. That doesn't leave a record on the cell tower, does it?

23 A. Not in the same way. So applications like WhatsApp,
24 iMessaging, any other kind of like app-based messaging
25 service, Android Messenger, while you need a cell signal to be

1 able to complete that transaction, it doesn't go over the
2 network as a telephone call or as a text message so it's not
3 going to be recorded on these records. If we had a data record
4 it might be recorded on the data record, but looking at those
5 records I can't tell you if somebody is using WhatsApp,
6 YouTube, Facebook, Netflix, I can't tell the difference. All I
7 can see is that there was a data transaction that occurred, a
8 timestamp for that and that's pretty much it.

9 Q. So are you familiar with the application Wickr?

10 A. I'm not sure I know that one.

11 Q. Okay. It's an encrypted application which we've heard
12 testimony that disguises or leaves no record. I shouldn't say
13 "disguises," but leaves no record of calls?

14 A. Yes, sir.

15 Q. Similar to WhatsApp, but a little bit more secure. So an
16 application like that, I know you're not familiar with it, but
17 if such an application were to exist that would not leave the
18 record on the cell tower as well, correct?

19 A. Correct. It's not going to leave a cell site record or a
20 call detail record in the same way that again, me calling my
21 doctor's office from my cell phone, it's not going to leave
22 that same footprint on the record.

23 Q. If I could have Exhibit 445 up please. Thank you, Ms.
24 Grossi. This is an exhibit that you looked at on direct
25 examination, a four-page exhibit. I'm not going to go through

1 it with you, but I just want to clarify a couple of things.

2 You made this exhibit, correct?

3 A. Yes, sir, I did.

4 Q. And the numbers in the exhibit were provided -- actually
5 let me ask you this question a better way. With some -- for
6 example, there's the color-coded green numbers are associated
7 with a name Patti Chaplin; is that right?

8 A. Yes, sir.

9 Q. You see that on your screen?

10 A. Yes, sir, I do.

11 Q. And that name was provided to you by law enforcement or
12 you confirmed it through subscriber records? Or which one of
13 the two ways or is there another way that you confirmed that?

14 A. It was provided to me by the Government. I don't know
15 her.

16 Q. So that's my question is that this is a case that you --
17 you did not participate in the investigation, but were brought
18 in for your expertise to interpret the records; is that right?

19 A. That's the case in every case I've worked basically for
20 the last seven or eight years, yes, sir.

21 Q. So all of these -- am I to assume then that all of the
22 color-coded numbers and names were provided to you by the
23 Government; is that right?

24 A. Yes, sir.

25 Q. Okay. And when there's not a color-coded name with a

1 number, that means that you weren't provided any information,
2 name or otherwise for that number?

3 A. That's correct.

4 Q. And there's lots of numbers in there with no names; is
5 that right?

6 A. There are, yes.

7 Q. Let me ask you a couple more questions, sir. Court's
8 brief indulgence.

9 With respect to making phone calls on your cell phone
10 just not through an application, but through the normal way, I
11 understand you're going to ping off of a tower. Is that the
12 right term, "ping"?

13 A. It's not really the right term because the ping describes
14 sending a signal to that phone to have that phone locate
15 itself to the carrier. So it connects to the tower. That's the
16 best way to say it.

17 Q. It's connecting to a tower. I think I heard you say that
18 most of the time, but not all of the time a phone is going to
19 connect to a tower that's geographically closest to it?

20 A. That's correct.

21 Q. But when you connect to a tower and your job in
22 interpreting the records -- and I'll go through it with you in
23 a minute in the other exhibit which is 446 -- that encompasses
24 a particular area, correct, as opposed to an exact location;
25 is that right?

1 A. Correct. I can't tell you -- I could not use that --
2 using the regular cell phone records I cannot pinpoint, I
3 can't tell you that the phone is on the steps of this
4 courthouse. What I can tell you is it's using a tower on top
5 of this courthouse and that tower faces north, so that phone
6 is going to be somewhere between here and I don't know, the
7 Beltway, just generally. It's going to give me a general area
8 of where the phone is.

9 Q. So if I'm at the Chipotle that's close to the courthouse,
10 for example, I like Chipotle, then you may not be able to tell
11 where I am, but I'm close by?

12 A. You're close by, yes, sir.

13 Q. Okay. And in this case -- actually, I don't need to see
14 it, thank you. In the exhibit that you provided, 446, plotting
15 the different calls and where they were I just want to be
16 clear that those things that appeared with respect to the
17 connections of towers were all general areas, right? Nowhere
18 specific?

19 A. Correct, they're general areas. They're just showing the
20 tower that's being used, the side of that tower that's being
21 used, and just like I stated in my testimony is those using --
22 when, for instance, when the phone is using a tower near
23 Bristolwood Court, that's consistent with being there. What
24 that means is if somebody were to be at Bristolwood Court
25 using their phone, that is the tower and sector that I'd

1 expect them to use.

2 Q. Okay. And sir, I don't have any other questions for you.

3 Thank you very much.

4 A. Thank you.

5 **THE COURT:** Thank you. Mr. Hawks?

6 **MR. HAWKS:** Thank you, Your Honor.

7 **C R O S S - E X A M I N A T I O N**

8 **BY MR. HAWKS:**

9 Q. Good morning, Agent Wilde.

10 A. Good morning, sir.

11 Q. You had talked about in Exhibit 445 the duration and it
12 was measured in seconds, basically?

13 A. That's correct.

14 Q. And you said that included the ring time?

15 A. Yes, sir.

16 Q. Okay. And that's all I have. Thank you, Your Honor.

17 **THE COURT:** Anything else just on that?

18 **MS. GROSSI:** Your Honor, can I have a brief moment
19 to talk to counsel?

20 **THE COURT:** Okay.

21 **(Counsel conferred privately off the record.)**

22 **MS. GROSSI:** Just a few questions, Your Honor.

23 **THE COURT:** Okay.

24 **R E D I R E C T E X A M I N A T I O N**

25 **BY MS. GROSSI:**

1 Q. Agent Wilde, you mentioned a minute ago about the general
2 area with which a phone is located by a normal call, correct?

3 A. Yes, ma'am.

4 Q. And is that different or the same as the RTT data that we
5 saw in Exhibit 446?

6 A. That is different.

7 Q. And can you explain the difference between the RTT data
8 and the normal call data?

9 A. Sure. So again, the RTT data is kind of running in the
10 background. There's no call needed. It's used to set up the
11 call or it's used to set up the connection between the phone
12 and the network. And so what happens is again, they measure
13 the time it takes for the signal to be able to go from the
14 tower to the phone and back to the tower. So on its own, that
15 phone has to be somewhere within that arc at that time period.
16 So on its own, in one -- one tower, one sector, and one arc.
17 What that can tell me is that phone is somewhere maybe at the
18 front of the jury box. It gives me that arc. So on its own,
19 great, the phone is somewhere in the front of the jury box.
20 Okay? Now adding in a second tower, or a third tower, or a
21 fourth tower and doing that same thing, say the second tower,
22 the second tower is at the back of the courtroom, but it faces
23 towards the front of the courtroom and it's about I don't
24 know, three or four people up the distance, now where those
25 arcs intersect, that's where that phone should be located.

1 So we were talking about Chipotle earlier, but again,
2 using the courthouse as an example, if the phone -- if the
3 tower is on top of this courthouse and it's facing toward the
4 parking garage in the back and that distance is at about .15,
5 .1 miles and then there's another one that intersects, I can
6 put that phone basically in the parking garage. That's where I
7 would go look for that phone and that's what -- we've used
8 that technique, I've used that technique hundreds of times to
9 find people, to find cars, to find missing phones and all
10 kinds of crazy stuff.

11 Q. So looking specifically at Exhibit 446, and this is page
12 21, is this showing that RTT data that you're talking about?

13 A. Yes, ma'am. It is.

14 Q. And when you're saying you know where the phone is
15 located and it's different than that normal call, you're
16 talking about where on this map is the phone located?

17 A. So here, again, if the phone is stationary at 2:03 and at
18 3:12 p.m., so if that phone is staying in the same place where
19 I'd expect to find that phone is right where these arcs
20 intersect, which is consistent with being in the area of the
21 Bristolwood Court address, specifically. If the phone is not
22 stationary, that phone could be anywhere in these arcs. It
23 could be anywhere in either one of these arcs during that time
24 period.

25 Q. Now in preparing this exhibit, Exhibit 446, did we notice

1 in preparing for today a typo in the prior Exhibit 446?

2 A. Yes, ma'am.

3 Q. And was that typo related to the EZ Storage address shown
4 on this screen?

5 A. Yes, it was.

6 Q. And was it later corrected?

7 A. It was.

8 **MS. GROSSI:** Thank you. No further questions, Your
9 Honor.

10 **THE COURT:** Okay. Anything just on that?

11 **MR. GUILLAUME:** No, Your Honor.

12 **MR. HAWKS:** No, Your Honor.

13 **THE COURT:** Okay, thank you very much, Agent Wilde.
14 You can step down. Thank you for your testimony.

15 **(Witness excused.)**

16 **THE COURT:** What's next, if anything, for the
17 Government?

18 **MS. GROSSI:** Your Honor, the United States rests,
19 subject to an examination of the exhibits that are in
20 evidence.

21 **THE COURT:** Okay, thank you.

22 Mr. Guillaume, who would be first for the defense? Or
23 who wants to announce their situation?

24 **MR. GUILLAUME:** I'm not sure, Your Honor, but if we
25 could confer.

1 **THE COURT:** Okay. What I'm going to do, ladies and
2 gentlemen, obviously we started a little later than usual, but
3 it's about time for the morning break. I think what we should
4 do, as you heard the Government has rested meaning that they
5 are complete with their evidence. That's a point at which
6 there's a few things I need to discuss with the attorneys. So
7 I think we should take the lunch break now a little earlier
8 than usual. We'll see you back here at 1:00 or 1:05 and we'll
9 continue. Thank you very much.

10 Again, you've only heard one side of the case. Or you've
11 only heard evidence from one party. You have not heard the
12 full case yet, including arguments and so forth. So keep an
13 open mind. Don't discuss the case among yourselves. We'll
14 see you back here in an hour. Thank you.

15 **(The jury exited the courtroom at 12:06 p.m.)**

16 **THE COURT:** Thank you. Please be seated. So just as
17 I understood it, I know there's at least -- I don't think we
18 did the issue with the exhibits and so forth, so we're not
19 done with the evidence, are we? Or did I miss that?

20 **MR. HAWKS:** You're correct, Your Honor.

21 **THE COURT:** Yeah, okay. So in terms of how we
22 proceed after lunch, who should I call on next to state
23 whether they have evidence or they're resting or how do you
24 want to handle that?

25 **MR. GUILLAUME:** Your Honor, I would probably think

1 that Mr. Hawks would go and then we would go because we don't
2 have any affirmative evidence to put on.

3 **THE COURT:** So you would just announce those
4 stipulations and put those photos up?

5 **MR. HAWKS:** Yes, Your Honor.

6 **THE COURT:** Okay. So we're right on the cusp of
7 whether we can do all this today. Part of it is I actually
8 don't know how long the jury instructions will take. Again,
9 they're longer than usual. I do -- I was trying to do the math
10 on this. We'll be coming in right around 5:00 plus or minus if
11 we do everything today. It would probably mean given where we
12 are now is we would do the jury instructions and the
13 Government's case before the break, and then do a break and
14 everything else as Mr. Hawks had suggested.

15 A lot of it depends to some degree on where we are and
16 length of closing. I know the Government has kind of -- we
17 know what they're doing. You had said 45 minutes, Mr.
18 Guillaume, and you had said 30 minutes, Mr. Hawks. Is that
19 still where you stand would you say?

20 **MR. GUILLAUME:** I would say so for Mr. Taeyan
21 Williams, yes. Around that time, Your Honor.

22 **THE COURT:** The 45?

23 **MR. GUILLAUME:** Around 40 to 45 minutes.

24 **MR. HAWKS:** Your Honor, I want to give myself maybe
25 35, 37 minutes, but around there.

1 **THE COURT:** Sure. Okay, I just don't have a good
2 sense of how long these instructions will take. We're going to
3 take it right up to 5. There was an issue Mr. Crawley had.
4 Tell me what that was.

5 **MR. CRAWLEY:** Yes, Your Honor. In looking back
6 through the Government's slides concerning their closing
7 statement, and I had brought this to the Government's
8 attention, they have a particular slide that states call from
9 Patti Chaplin to Scott Williams', quote, "OG phone at 2:27
10 a.m. because Scott Williams was not at home." And then it
11 shows the transcript. Let me just state not transcript, but it
12 highlights the extraction from the call log. And it appears on
13 page 108 based on my understanding of these slides and it says
14 Exhibit 445 at the bottom, if the Court wants to take a look
15 at it.

16 **THE COURT:** I'm not seeing page numbers on the
17 version I have.

18 **MR. CRAWLEY:** I think if you just start to scroll
19 through, Your Honor, I'm not sure. Are you looking at a
20 hardcopy?

21 **THE COURT:** I'm looking at a hardcopy. In their
22 infinite wisdom the Government didn't number the pages.

23 **MR. CRAWLEY:** I'm sorry.

24 **THE COURT:** So do you want to give me something
25 that's kind of close to?

1 **MR. CRAWLEY:** It starts around the timeline of the
2 call activity, April 6th through April 8th and it's pretty
3 much midway through all of the exhibits, Your Honor. So on my
4 list of slides or whatnot, there appears to be 196 and this is
5 going to be around 108, Your Honor. So if that helps you put
6 your finger on it. There are other -- if you get to pictures
7 of the interior of the vehicle, then you've gone too far, if
8 that helps the Court.

9 **THE COURT:** I don't know if the Government can help
10 me find this, your presentation.

11 **MR. CRAWLEY:** If the Court --

12 **THE COURT:** There's sort of a chronological. What
13 date is this associated with this?

14 **MR. CRAWLEY:** This is associated with April 6th,
15 into the early morning hours of April 7th.

16 **MS. GROSSI:** Your Honor, if you would like me to
17 publish it to you, I can.

18 **THE COURT:** Okay, I got it. It's right before April
19 7, 2018.

20 **MR. CRAWLEY:** Yes, sir, Your Honor. And so my
21 concern with that is that I didn't recall the testimony of Ms.
22 Patti Chaplin to specifically say that Scott was not at home
23 so I asked the court reporter to look back through the record.
24 And what it says was -- and the Government can correct me as
25 well as the prosecutor, Ms. Chaplin was asked and she said she

1 did not know. And then the Government attempted to lead her by
2 saying, "But if you were to call him at that time of the
3 morning it would be because you didn't know where he was?"

4 And then she gave somewhat of a vague answer, Your Honor.

5 So I don't think this is 100 percent accurate. And to the
6 extent that the Court has already addressed counsel not trying
7 to paraphrase jury instructions and things of that sort, I
8 would just ask the Court -- I mean, clearly the witness just
9 testified concerning this call, the expert, and the fact that
10 the call could have been a call that didn't occur, it could
11 have been a five-second call. The person's phone could have
12 been on airplane mode, it could have been off. He gave a
13 number of reasons as the Court may recall. But I would just
14 ask the Court not to allow the Government to give testimony
15 that says that Ms. Chaplin specifically said it was because he
16 was not at home. And the Court can look back through the
17 record too. When I looked at it, her initial response was she
18 didn't know. And so that would be my point, Your Honor.

19 **MS. GROSSI:** Your Honor, we are happy to change the
20 text of this slide. It wasn't my intention to quote her on
21 this slide and I can leave it for argument.

22 **THE COURT:** So taking out, for example, everything
23 after 2:27 a.m?

24 **MS. GROSSI:** Correct.

25 **THE COURT:** Is that okay with you, Mr. Crawley?

1 **MR. CRAWLEY:** That's fine, Your Honor.

2 **THE COURT:** Call at 2:27 a.m?

3 **MR. CRAWLEY:** Yes, sir.

4 **THE COURT:** Okay. Anything else we need to address
5 regarding the defense case? I take it there's no rebuttal to
6 the stipulation -- Mr. Guillaume?

7 **MR. GUILLAUME:** Your Honor, before you were kind of
8 going down the path of what do we do with the instructions
9 today, the closing, we're prepared to do whatever is
10 necessary, either close today or tomorrow. But to the extent
11 that the Court is concerned that the instructions -- my last
12 trial I had with Judge Xinis which was not too long ago, we
13 had shorter instructions and it took close to an
14 hour-and-a-half, close to two hours for her to read
15 everything, if that's any guide for the Court.

16 **THE COURT:** How much shorter was it would you say?

17 **MR. GUILLAUME:** How much shorter?

18 **THE COURT:** You said it was a lot shorter than this?

19 **MR. GUILLAUME:** Not a lot shorter, but there's more
20 layers, there's two people here. I just -- I'm going last, so
21 I just don't want to be in a position where it's 5:00 and I'm
22 just starting and the jury is looking at me with the evil eye.
23 I wouldn't want to prejudice my client.

24 **THE COURT:** I understand. I actually think -- so on
25 the one hand, Judge Xinis may talk slower than me if that's

1 the math, and maybe the court reporters are usually the best
2 judge of speed, but I tend to agree with you that again, most
3 of our jury instructions are based on number of counts and as
4 we know in this case, the Government has -- there's either
5 ors, there's a lot of different moving parts around that leads
6 to longer instructions. So I would anticipate this would take
7 at least an hour I would say, probably more. Usually mine are
8 like under an hour, but they're usually a lot shorter than
9 this.

10 And so what I would propose even though again, I know
11 some judges like to keep the instructions together, I also
12 think given the length of them, it's not going to be easy to
13 do them all in a morning and then Mr. Guillaume will be sort
14 of bumping up against the lunch hour. So I'm comfortable,
15 given the length of this and given how much the jury probably
16 needs some breaks between various steps, that we call the jury
17 back, we finish the case, we give them the jury instructions
18 and then we send them home a little early. It will probably
19 be in the neighborhood of 2:30 or something like that. But I
20 think without starting by 2:00 on the dot I don't think we
21 finish by 5. And even then we might not. I have some final
22 instructions as you know for the jury.

23 So I think just in terms of the better part of valor and
24 not trying to rush us all through this or say that we have to
25 take really short breaks, I think we should do that. It also

1 gives everyone a chance to adjust their slides. We have this
2 one that Mr. Crawley just pointed out.

3 I would just note for everybody, I do have what I think
4 are the final instructions. At least the ones I'm prepared to
5 provide to the jury today at least orally. Obviously I often
6 find little typos here and there that I miss myself and then
7 we give them the final version that's slightly different. But
8 the numbers have shifted a little because we took out one
9 instruction and so I think some of these slides refer to
10 instruction numbers. You may want to take the afternoon to
11 just make sure you're all up to date on that because that can
12 happen as well.

13 So I think it gives both sides the opportunity just to be
14 completely locked down on what they're saying in the closing.
15 So unless anybody objects to that I think that's probably the
16 best course. And then what would happen is first thing in the
17 morning we would start at 9:00 with the arguments. We'd have
18 it all done certainly before lunch, probably around noon. But
19 in plenty of time for them to have lunch and start
20 deliberating right after that.

21 Any concerns with that approach?

22 **MS. GROSSI:** That works from the Government.

23 **MR. HAWKS:** No objection from Scott Williams.

24 **MR. GUILLAUME:** Thank you, Your Honor.

25 **THE COURT:** Okay. So we'll see you back here --

1 sorry, Mr. Nieto?

2 **MR. NIETO:** My apologies, Your Honor. Just a quick
3 question in terms of timing. With regards to the Rule 29
4 motions as well as the voir dire of the defendants' right to
5 testify --

6 **THE COURT:** Honestly, we should be doing that now,
7 you're right. The motions, that's frankly in your alls hands,
8 but you're raising it now, and the voir dire. So I guess
9 we'll do that now and maybe let the jury wait five minutes and
10 give us a slightly longer break.

11 So in terms of -- well, why don't we start with the
12 defendants then, how about that?

13 **MR. NIETO:** Your Honor, as is our understanding that
14 the Government's case has rested, then on behalf of Taeyan
15 Williams we would make a motion pursuant to Rule 29, but we
16 will submit on that motion.

17 **THE COURT:** Okay. Mr. Hawks, anything in that
18 regard?

19 **MR. HAWKS:** Your Honor, we do as well.

20 **THE COURT:** Okay. You know what we can do, I think
21 this makes the most sense. If there's anything else anybody
22 wants to add on those motions we can do that after the jury
23 instructions. Obviously you preserve your rights, but if we
24 want to talk about that we can do that after the jury has left
25 after the jury instructions. And then in terms of testifying

1 though, why don't we start with Scott Williams. My
2 understanding, Mr. Hawks, is he's not planning to testify; is
3 that correct?

4 **MR. HAWKS:** Yes, Your Honor, that's correct.

5 **THE COURT:** And what I would typically do, I'd like
6 to perhaps just engage with a brief colloquy with Mr. Williams
7 and obviously Mr. Hawks, if there's anything you want to
8 confer with him or Mr. Crawley during that, you're welcome to
9 do that. Is that okay?

10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** Mr. Williams, as you know -- well, as I
12 mentioned to the jury at the beginning, you have -- the
13 Government has the burden to prove guilt beyond a reasonable
14 doubt and you have no burden or obligation to present any
15 evidence and not to testify at all. In fact, you have a
16 constitutional right to decline to testify if you choose to.
17 Do you understand that?

18 **DEFENDANT S. WILLIAMS:** Yes, Your Honor.

19 **THE COURT:** Now you also have the right if you
20 choose to to take the stand and testify in your own defense.
21 Do you understand that?

22 **DEFENDANT S. WILLIAMS:** Yes, Your Honor.

23 **THE COURT:** Now the decision on whether to testify
24 or not is an important one in a trial like this. And I want to
25 make sure that you've had the opportunity to fully discuss

1 that decision with your counsel. Have you had those
2 discussions and do you believe you've received adequate advice
3 on that issue?

4 **DEFENDANT S. WILLIAMS:** Yes, Your Honor.

5 **THE COURT:** Now regardless of what recommendations
6 your counsel or anyone else may have made to you, or even
7 directions that you or anyone else may have tried to give to
8 you, the decision on whether to testify is a personal one to
9 the defendant and so it is your decision and your decision
10 only. Do you understand that?

11 **DEFENDANT S. WILLIAMS:** Yes, Your Honor.

12 **THE COURT:** And understanding that, have you made
13 this decision personally with whatever advice you've received,
14 but is it your decision and not the decision of someone else
15 to choose not to testify?

16 **DEFENDANT S. WILLIAMS:** No, this is my decision. I
17 choose not to testify.

18 **THE COURT:** Okay. Anything else that anyone would
19 like me to raise with Mr. Scott Williams?

20 **MS. GROSSI:** Not from the Government, Your Honor.

21 **THE COURT:** Okay. So then can we move to Mr. Taeyan
22 Williams. So although I know you heard all that I'm going to
23 say it specifically for you, Mr. Williams. Do you understand
24 that the Government has the burden to prove guilt beyond a
25 reasonable doubt and a defendant in a criminal case has no

1 burden or obligation to present any evidence or to testify?

2 Do you understand that?

3 **DEFENDANT T. WILLIAMS:** Yes, sir.

4 **THE COURT:** And you have no burden to prove your own
5 innocence or anything like that. Do you understand that?

6 **DEFENDANT T. WILLIAMS:** Yes, sir.

7 **THE COURT:** Now the decision on whether to testify
8 or not, you have the right if you choose to, to testify as
9 well on your own behalf. Do you understand that?

10 **DEFENDANT T. WILLIAMS:** Yes, sir.

11 **THE COURT:** And the decision on whether to testify
12 is one that you need to get advice of counsel on. Have you had
13 the opportunity to discuss that issue with your attorneys and
14 you believe you've received sufficient advice on that issue?

15 **DEFENDANT T. WILLIAMS:** Yes, I have.

16 **THE COURT:** And are you choosing to testify or not
17 today?

18 **DEFENDANT T. WILLIAMS:** Not to testify.

19 **THE COURT:** Okay. And as I said to Mr. Scott
20 Williams, the decision on whether to testify is a personal
21 decision. Regardless of whether your attorneys or anyone else
22 may have given you specific recommendations, the decision has
23 to be yours and yours alone. Do you understand that?

24 **DEFENDANT T. WILLIAMS:** Yes, I do.

25 **THE COURT:** And is it your personal decision to

1 choose not to testify in this trial?

2 **DEFENDANT T. WILLIAMS:** Yes, it is.

3 **THE COURT:** Anything from the Government that you'd
4 like me to offer or anything like that?

5 **MS. GROSSI:** No, Your Honor.

6 **THE COURT:** Okay, thank you.

7 Okay, so we've completed that. We'll discuss those
8 motions after the jury instructions. We'll see you back here
9 at 1:05. We can start a few minutes after that with the jury
10 instructions. Thank you very much.

11 **(Luncheon recess was taken from 12:21 to 1:05 p.m.)**

12 **THE COURT:** Anything we need to discuss before we
13 bring in the jury?

14 **MS. GROSSI:** Not from the Government, Your Honor.

15 **THE COURT:** I should note although we can talk about
16 this later, that I realize we haven't updated the verdict form
17 since I moved us to the lesser included offense concept. I
18 started doing that during the lunch break. We'll probably send
19 that to you this afternoon for comment first thing in the
20 morning. It should just be ministerial, but we do need to fix
21 that.

22 Okay, so we'll start with going to Mr. Hawks, then going
23 to Mr. Guillaume, then going to the instructions, correct?

24 **MR. HAWKS:** Yes, Your Honor.

25 **THE COURT:** Okay, we're ready.

(Jury reentered the courtroom at 1:13 p.m.)

THE COURT: Thank you, everyone. Please be seated.

Welcome back from lunch, ladies and gentlemen. As you heard right before lunch, the Government has rested, meaning that they have completed their presentation of evidence. The defendants if they choose to, have the opportunity to present evidence. As I mentioned before, they have no burden to prove anything, but they have that opportunity if they would like to.

So I'd like to turn to Mr. Hawks on behalf of Mr. Scott Williams, as to whether you have any additional evidence to offer.

MR. HAWKS: We do, Your Honor.

THE COURT: Okay. Go ahead.

MR. HAWKS: Your Honor, the defense offers Exhibit 525C, 1051 -- pardon me, 1052, 1053, and 1054.

THE COURT: Hold on a second. Let me make sure I have this all marked down. Okay, and 525C is the stipulation; is that correct?

MR. HAWKS: It is, Your Honor.

THE COURT: Okay, so I take it there's no objection, correct?

MS. GROSSI: That's correct, Your Honor.

THE COURT: So Exhibits 525C, 1052, 1053 and 1054 are in evidence. And perhaps you should read the stipulation.

1 You can put it up on the screen and that will be part of the
2 evidence.

3 **MR. HAWKS:** Will do, Your Honor. And Your Honor, I
4 note there is a typographical error. The Exhibit 1051 should
5 reflect Exhibit 1054.

6 **THE COURT:** Okay. Any problem with that, Ms. Grossi?

7 **MS. GROSSI:** Your Honor, can we just mark it on the
8 stipulation?

9 **THE COURT:** I think if you handwrite it in and
10 initial it or --

11 **MR. HAWKS:** Your Honor, a stipulation of additional
12 photographs. The Government and the defendants, Scott Anthony
13 Williams and Taeyan Raymond Williams, do hereby stipulate and
14 agree that the photographs to be admitted as Exhibits 1054,
15 1052, and 1053 were taken at 348 Lomar Road, Susquehanna,
16 Pennsylvania during the same time that the photographs
17 admitted as Exhibits 11 through 32 were taken. Signed by the
18 counsel for the parties.

19 **THE COURT:** Okay. Would you like to show those
20 photos to the jury or --

21 **MR. HAWKS:** Yes, Your Honor.

22 **THE COURT:** Okay, you can put them on the screen.

23 **MR. HAWKS:** And Exhibit 1052, Exhibit 1053, and
24 Exhibit 1054.

25 **THE COURT:** Okay. Thank you, Mr. Hawks. Any further

1 evidence Mr. Scott Williams would like to offer?

2 **MR. HAWKS:** Your Honor, on behalf of the defendant,
3 Scott Williams, the defense rests.

4 **THE COURT:** Okay, so that's all the additional
5 evidence that Mr. Scott Williams is going to put into the
6 trial. And we'll have those handed up.

7 Mr. Guillaume, on behalf of Mr. Taeyan Williams?

8 **MR. GUILLAUME:** Thank you, Your Honor. On behalf of
9 Mr. Taeyan Williams, the defense rests as well.

10 **THE COURT:** Okay, so we have no further evidence to
11 be presented in the case.

12 I take it, Ms. Grossi, there's nothing further from the
13 Government, just for the record?

14 **MS. GROSSI:** That's correct, Your Honor.

15 **THE COURT:** So ladies and gentlemen, what that means
16 is you've heard all of the evidence that you're going to hear
17 in this case.

18 Now if you recall from the beginning when I had the
19 preliminary jury instructions, that doesn't mean we're done
20 here. There's a number of additional steps. And to recap, what
21 happens next is I will give you the instructions, the jury
22 instructions on what the applicable law is and the information
23 you need to understand how to do your job as jurors. And then
24 you'll hear the closing arguments from counsel which are not
25 evidence, but like the opening statements they're designed to

1 allow the attorneys to give you their perspective or to put
2 the evidence in context so that you can understand at least
3 from their perspective, how it fits together or doesn't fit
4 together. And then you get to deliberate on the case.

5 Now given where we are in the day, although it's still
6 relatively early in our trial day, it's 1:20, the closing
7 arguments will take several hours and I promise you as always
8 that we'll be done by 5:00.

9 So what we're going to do is I'm going to give you the
10 jury instructions which are actually quite lengthy. We'll do
11 that this afternoon. But once we're done with that, we will
12 stop for the day rather than start the closing arguments
13 because we always think it's better to do those all in one
14 session. It wouldn't make sense to start, have one attorney go
15 today and have the other go in the morning. So those will all
16 come to you first thing in the morning so you'll have a fresh
17 start with those.

18 But given the length of the argument and the jury
19 instructions, while we're all here I will give you the jury
20 instructions first and then we will conclude for the day and
21 have you hear closing arguments in the morning.

22 So as to the jury instructions, now that all the evidence
23 has been presented, let me thank you for your promptness in
24 following our schedule, for your attention throughout this
25 case, and for your patience when it has been necessary to have

1 discussions out of your presence.

2 Before the attorneys deliver their closing arguments, I
3 will now instruct you on the law that applies in this case.
4 The instructions should assist you in following the arguments
5 that will be your guide as you conduct deliberations.

6 It has been clear that up until now you have faithfully
7 discharged your duty to listen carefully and observe each
8 witness who testified. I ask you to give me that same careful
9 attention as I instruct you on the law.

10 You will receive a written version of these instructions
11 to take into the jury room, so you do not need to take notes
12 if you do not want to.

13 As I mentioned at the outset of the trial, the functions
14 of the judge and the jury are different. During the trial, it
15 was my duty to decide what testimony and evidence is relevant
16 under the law for your consideration. Now that you've heard
17 all of the evidence in the case, it is my duty as the trial
18 judge to instruct you as to the law that applies in this case.
19 It is your duty to accept these instructions of law and apply
20 them to the facts as you determine them.

21 You are required to follow the law as I define it for
22 you. If any attorney has stated or states a legal principle
23 different from any that I state to you in my instructions, it
24 is my instructions that you must follow. You should not single
25 out any instruction as alone stating the law. But you should

1 consider my instructions as a whole when you retire to
2 deliberate to the jury room.

3 You should not be concerned about the wisdom of any rule
4 that I state. Regardless of any opinion that you may have as
5 to what the law may be or ought to be, it would violate your
6 sworn duty to base a verdict upon any other view of the law
7 than that which I give you.

8 Since you are the sole and exclusive judges of the facts,
9 I do not have and do not mean to convey any opinion as to the
10 facts or what your verdict should be. Anything I have said
11 during the trial, including the rulings I've made during the
12 trial, are not a sign of any view of what your decision should
13 be. I have not expressed and have not intended to convey any
14 opinion as to which witnesses are or are not worthy of belief,
15 what facts are or are not established, or what inference or
16 inferences should be drawn from the evidence. If any
17 expression of mine has seemed to convey an opinion relating to
18 any of these matters, I instruct you to disregard it.

19 As members of the jury, it is your duty to pass upon and
20 decide the factual issues in this case. You are the sole and
21 exclusive judges of the facts. You will consider and weigh the
22 evidence. You determine the credibility of the witnesses. You
23 resolve such conflicts as there may be in the testimony. You
24 draw whatever reasonable inferences you decide to draw from
25 the facts as you have determined them.

1 You are to perform the duty of finding the facts in this
2 case without bias or prejudice to any party. I remind you that
3 before you were accepted and sworn to serve as a juror, you
4 were asked questions that related to your ability to be fair
5 and impartial, and to be free from bias and prejudice. On the
6 basis of those answers you were accepted as jurors by the
7 Court and the parties. Those answers are as binding on each of
8 you now as they were then and will remain so until you are
9 discharged at the conclusion of the case.

10 Now in this case the parties are the United States
11 Government and the defendants, Scott Anthony Williams and
12 Taeyan Raymond Williams. This case is important to the
13 Government because the enforcement of criminal laws is a
14 matter of prime concern to the community. It is also important
15 to the defendants who are charged with serious crimes.

16 The fact that the prosecution is brought in the name of
17 the United States of America entitles the Government to no
18 greater consideration than any other party in a trial. By the
19 same token, the Government is entitled to no less
20 consideration. All parties, whether the Government or an
21 individual defendant, stand as equals in this courtroom.

22 Your verdict must be based solely upon the evidence
23 developed at trial or the lack of evidence. In reaching your
24 verdict, it would be improper for you to consider any personal
25 feelings you may have about the defendants' race, religion,

1 national origin, sex, or age. All persons are entitled to the
2 presumption of innocence and the Government has the burden of
3 proof as I will discuss in a moment.

4 It would be equally improper for you to allow any
5 feelings you might have about the nature of the crimes charged
6 to interfere with your decision-making process. You may not be
7 swayed by sympathy. You are to be guided solely by the
8 evidence in this case. And the crucial question that you must
9 ask yourselves as you sift through the evidence is: Has the
10 Government proven the guilt of the defendants beyond a
11 reasonable doubt? It is for you alone to decide whether the
12 Government has proven that either defendant is guilty of the
13 crimes charged solely on the basis of the evidence and subject
14 to the law as I instruct you. It must be clear to you that
15 once you let fear, or prejudice, or bias, or sympathy
16 interfere with your thinking there is a risk that you will not
17 arrive at a true and just verdict. Again, your verdict must be
18 based exclusively upon the evidence or lack of evidence in the
19 case.

20 You may not allow any views you may have about the
21 conduct of the attorneys in this case to have any impact on
22 your consideration of this case. It is the duty of the
23 attorney for each side of a case to object when the other side
24 offers testimony or other evidence which the attorney believes
25 is not properly admissible.

1 The attorneys also have the right and duty to ask me to
2 make rulings of law and to request conferences at the bench
3 out of the hearing of the jury. You may not allow the fact
4 that an attorney objected to the admissibility of evidence,
5 asked for a conference out of the hearing of the jury, or
6 asked the Court for a ruling on the law to affect your
7 consideration of this case.

8 Your verdict must be based solely on the evidence
9 presented in this courtroom and in accordance with my
10 instructions. You must completely disregard any report that
11 you have read or heard in the media or seen on television or
12 the internet. It would be unfair to consider such reports
13 since they are not evidence and the parties have no
14 opportunity to explain or contradict them. It would be a
15 violation of your oath as jurors to allow yourselves to be
16 influenced in any manner by such publicity.

17 As the finders of fact it is your role to consider
18 whether based on the evidence admitted in this case the
19 Government has proven that the defendants are guilty of the
20 crimes with which they are charged. Although the defendant has
21 been indicted -- although the defendants have been indicted,
22 you must remember that an indictment is only an accusation. It
23 is not evidence.

24 The defendants have pleaded not guilty to the indictment
25 in this case. As a result of the defendants' pleas of not

1 guilty, the burden is on the prosecution to prove guilt beyond
2 a reasonable doubt. This burden never shifts to the defendants
3 because the law never imposes upon the defendant in a criminal
4 case the burden or duty of calling any witness or producing
5 any evidence. The law presumes a defendant to be innocent of
6 all the charges against him. I therefore instruct you that
7 each defendant is to be presumed by you to be innocent
8 throughout your deliberations until such time, if ever, that
9 you as a jury are satisfied that the Government has proven
10 that defendant guilty beyond a reasonable doubt.

11 The defendants began the trial with a clean slate. This
12 presumption of innocence alone is sufficient to acquit the
13 defendants unless you as jurors are unanimously convinced
14 beyond a reasonable doubt of the defendants' guilt after a
15 careful and impartial consideration of all of the evidence in
16 this case. If the Government fails to sustain its burden on
17 any charge as to a defendant you must find that defendant not
18 guilty as to that charge.

19 This presumption was with the defendants when the trial
20 began, remains with them even now, and will continue with them
21 into your deliberations until such time, if ever, that you are
22 convinced that the Government has proven the defendants' guilt
23 beyond a reasonable doubt.

24 Now in determining the facts you must rely upon your own
25 recollection of the evidence. You may consider not only the

1 evidence referred to by the attorneys in their arguments, but
2 you may also consider any evidence in this case which you may
3 believe to be material even if not referred to by the
4 attorneys.

5 The evidence in this case consists of the sworn testimony
6 of the witnesses, all exhibits received in evidence, and all
7 facts which may have been admitted by stipulation. Exhibits
8 which have been marked for identification but were not
9 admitted may not be considered by you as evidence. Only those
10 exhibits admitted may be considered as evidence.

11 You are to consider only the evidence presented and you
12 may not guess or speculate as to any fact not presented as
13 evidence.

14 Let me remind you what is not evidence. The fact that
15 there was an indictment bringing charges in this case is not
16 evidence and you may draw no inference from that fact. What I
17 may have said during the trial or what I may say in these
18 instructions is not evidence. What the lawyers have said in
19 their opening statements and their closing arguments is not
20 evidence, although you may give consideration to those
21 arguments in making up your mind on what inferences to draw
22 from the facts which are in evidence.

23 Anything you may have seen or heard about this case
24 outside of the courtroom is not evidence and must be entirely
25 disregarded. Statements of the attorneys, including their

1 objections and their questions, are not evidence. A question
2 put to a witness is never evidence. It is only the answer
3 which is evidence.

4 At times, a lawyer may have incorporated into a question
5 a statement which assumes certain facts to be true and asked
6 the witness if the statement was true. If the witness denied
7 the truth of the statement or if the question was not answered
8 or an objection to a question was sustained, then you may not
9 consider the fact to be true simply because it was contained
10 in a lawyer's question. Any answer that I directed you to
11 disregard or any evidence I directed to be struck from the
12 record is not evidence and you must dismiss it from your mind
13 completely and entirely. If I instructed you that certain
14 evidence was admitted for one purpose only you may not
15 consider it for any other purpose.

16 From time to time I have called upon you to pass -- I
17 have been called upon to pass upon the admissibility of
18 evidence -- certain evidence, such as by ruling on objections
19 to questions. You should not be concerned with my rulings or
20 the reasons for those rulings and you are not to draw any
21 inferences from them.

22 In admitting evidence to which an objection has been
23 made, I did not determine what weight should be given to such
24 evidence, nor did I pass judgment on the credibility of the
25 evidence. For any question to which I sustained an objection,

1 you must not guess what the answer might have been and you
2 must not speculate as to the reason the question was asked or
3 the reason for the objection. You should not speculate about
4 the nature or effect of any discussions I had with counsel
5 outside of your hearing or sight.

6 I will now discuss some specific forms of evidence that
7 have been admitted in this case and some other issues relating
8 to evidence not offered in this case.

9 A stipulation of fact is an agreement among the parties
10 that a certain fact is true. You should regard such agreed
11 facts as true. A stipulation of testimony is an agreement
12 among the parties that if called, a witness would have given
13 certain testimony. You must accept as true the fact that the
14 witness would have given that testimony in court. However, it
15 is for you to determine the effect to be given to that
16 testimony.

17 Certain exhibits have been presented in the form of
18 charts and summaries. I decided to admit these charts and
19 summaries in place of the underlying evidence that they
20 represent in order to save time and avoid unnecessary
21 inconvenience. You should consider these charts and summaries
22 as you would any other evidence.

23 The Government has offered evidence in the form of
24 recordings of telephone calls. There is, however, no agreement
25 or stipulation as to identity of speakers on any other

1 recording so that you will have to determine for yourselves
2 the identity of the parties in each conversation based on the
3 testimony you heard and the evidence produced at trial.

4 The Government was permitted to provide you documents
5 that are prepared which contain the Government's
6 interpretation of what is said on the recordings which have
7 been received as evidence. Those transcripts were provided to
8 you as an aid or guide to assist you in listening to the
9 recordings. However, they are not in and of themselves
10 evidence. You will not have the transcripts with you during
11 your deliberations. Therefore, when the recordings were played
12 I advised you to listen carefully to the recordings
13 themselves. You alone should make your own interpretation of
14 the content of the recordings based on what you heard. If you
15 think you heard something different from what appeared on the
16 transcript, then what you heard is controlling.

17 You've also heard testimony in this case regarding
18 evidence seized by the Government during the execution of
19 search warrants. You are instructed that it is the
20 responsibility of the Court alone to determine the validity
21 and legality of these search warrants. It is up to you to
22 decide what significance, if any, the evidence seized may have
23 in this case.

24 You may hear argument by counsel that the Government did
25 not utilize specific investigative techniques. You may

1 consider that fact in deciding whether the Government has met
2 its burden of proof because as I told you, you should look to
3 all of the evidence or lack of evidence in deciding whether
4 the defendants are guilty. However, you are also instructed
5 that there is no legal requirement for the Government to use
6 -- that the Government use any specific investigative
7 techniques to prove its case. The law does not require the
8 prosecution to call as witnesses all persons who have been
9 present at any time or place involved in the case or who may
10 appear to have some knowledge of the matters at issue in this
11 trial. Nor does the law require the prosecution to produce as
12 exhibits all papers and things mentioned in the evidence. Your
13 task as I've said is to determine whether or not on the
14 evidence or lack of evidence, the guilt of the defendants has
15 been proven beyond a reasonable doubt.

16 In deciding whether or not the Government has met its
17 burden of proof you may consider both direct evidence and
18 circumstantial evidence. The law makes no distinction between
19 direct and circumstantial evidence. Circumstantial evidence is
20 of no more or less value than direct evidence and you may
21 consider either or both and may give them such weight as you
22 conclude is warranted. A case may be proven by direct evidence
23 alone, circumstantial evidence alone, or a combination of the
24 two.

25 Direct evidence is direct proof of a fact such as

1 testimony of an eyewitness as to what he or she saw, heard or
2 observed. For example, if a witness came into this courtroom
3 and testified that she had just been outside and saw that it
4 was raining, that would be direct evidence that it was
5 raining.

6 Circumstantial evidence is proof of facts from which you
7 may infer or conclude that other facts exist. To give an
8 example, suppose that when you came into the courthouse today
9 the sun was shining and it was a nice day. Then later as you
10 were sitting here someone walked in with a dripping wet
11 umbrella and a wet raincoat. Because you cannot look outside
12 of the courtroom and cannot see whether or not it is raining,
13 you have no direct evidence of that fact. But from the
14 combination of the facts you observed about the umbrella and
15 the raincoat, it would be reasonable for you to infer that it
16 had begun to rain. That is all there is to circumstantial
17 evidence; using your reason and experience you infer from
18 established facts the existence or the nonexistence of some
19 other fact.

20 Please note that using circumstantial evidence is not a
21 matter of guesswork or speculation. It is a matter of making a
22 logical inference. In drawing inferences, you should exercise
23 your common sense and everyday experience.

24 In discussing circumstantial evidence, I've highlighted
25 the fact that in your consideration of the evidence you are

1 not limited to the statements of the witnesses or the words in
2 an exhibit. You are not limited to what you see and hear as
3 the witnesses testify. You are permitted to draw, from facts
4 which you find have been proved, such reasonable inferences as
5 you can find to be justified in light of your own experience.

6 Inferences are deductions or conclusions which you are
7 permitted to draw, but not required to draw from the facts
8 which have been established by either direct or circumstantial
9 evidence. In drawing inferences you should use your common
10 sense and everyday experience. An inference is not a suspicion
11 or a guess. It is a reasoned, logical decision to conclude
12 that a disputed fact exists on the basis of another fact which
13 you know exists.

14 There are times when different inferences may be drawn
15 from the facts. The Government asks you to draw one set of
16 inferences while the defendants' counsel asks you to draw
17 another. It is for you and you alone to decide what inferences
18 you will draw.

19 Let me remind you that whether based on direct or
20 circumstantial evidence, or upon the logical, reasonable
21 inferences drawn from such evidence, you must be satisfied of
22 the guilt of the defendants beyond a reasonable doubt before
23 you may convict.

24 You should also use your common sense and everyday
25 experience for another important part of your consideration of

1 the evidence, determining how believable each witness was in
2 his or her testimony. In order to find the facts in this case
3 you will need to make judgments about the testimony of the
4 witnesses you have listened to and observed. You are the sole
5 judges of the credibility of each witness and of the
6 importance of his or her testimony.

7 In making these judgments you should carefully scrutinize
8 all of the testimony of each witness, the circumstances under
9 which each witness testified, and any other matter in evidence
10 which may help you decide the truth and the importance of each
11 witness' testimony.

12 You watched each witness testify. Everything a witness
13 said or did on the witness stand counts in your determination.
14 You should use all of the tests for truthfulness that you
15 would use in determining matters of importance to you in your
16 everyday life. Among the factors you should consider are the
17 witness' opportunity to see, hear, or know the facts about
18 which he or she testified; the witness' memory and level of
19 recall of the events; whether the witness' recollection of the
20 facts stands up in light of the other evidence in the case;
21 whether it was consistent with or contradicted by other
22 evidence; whether the witness' testimony was consistent with
23 other statements he or she made during testimony or at an
24 earlier time; the witness' demeanor in testifying; any
25 relationship the witness may have with the Government or the

1 defendants that may affect how he or she testified; any
2 interest, financial or otherwise that the witness may have in
3 the outcome of the case; and any bias, prejudice, or hostility
4 the witness may have for or against any party. In summary,
5 what you must try to do in deciding credibility is to size up
6 a person just as you would in any important matter when you
7 are trying to decide if a person is truthful, straightforward,
8 and accurate in his or her recollection. Always remember that
9 you should use your common sense, your good judgment, and your
10 own life experience.

11 You need not believe a witness even though the testimony
12 is uncontradicted. You may believe all, part, or none of the
13 testimony of any witness.

14 I will now discuss some specific issues related to
15 witness testimony. You have heard evidence that witnesses may
16 have made statements on earlier occasions that counsel argues
17 are inconsistent with their trial testimony. If the earlier
18 statement was made under penalty of perjury during a trial,
19 hearing, or other court proceeding or deposition, you may
20 consider that earlier statement as evidence of the fact to
21 which the witness testified on that earlier occasion. If the
22 earlier statement was not made under penalty of perjury during
23 a trial, hearing, or other court proceeding or deposition, the
24 evidence of a prior inconsistent statement is not to be
25 considered by you as evidence of the fact stated on that

1 earlier occasion, or as affirmative evidence bearing on the
2 defendant's guilt. Evidence of the prior inconsistent
3 statement was placed before you for the more limited purpose
4 of helping you decide whether to believe the trial testimony
5 of the witness who contradicted himself. If you find that the
6 witness made an earlier statement that conflicts with the
7 witness' trial testimony, you may consider that fact in
8 deciding how much of the witness' trial testimony, if any, to
9 believe.

10 In making this determination, you may consider whether
11 the witness purposely made a false statement or whether it was
12 an innocent mistake; whether the inconsistency relates to an
13 important fact or whether it had to do with a small detail;
14 whether the witness has an explanation for the inconsistency
15 and whether the explanation -- that explanation appealed to
16 your common sense. It is exclusively your duty based upon all
17 of the evidence and your own good judgment to determine
18 whether the prior statement was inconsistent and if so, how
19 much, if any weight to give to the inconsistent statement in
20 determining whether to believe all or part of the witness'
21 testimony.

22 In evaluating the credibility of the witnesses you should
23 take into account any evidence that the witness who testified
24 may benefit in some way from the outcome of this case. Such an
25 interest in the outcome creates a motive to testify falsely

1 and may sway the witness to testify in a way that advances his
2 or her own interest. Therefore, if you find that any witness
3 whose testimony you are considering may have an interest in
4 the outcome of this trial, then you should bear that factor in
5 mind when evaluating the credibility of his or her testimony
6 and accept it with great care. This is not to suggest that
7 every witness who has an interest in the outcome of a case
8 will testify falsely. It is for you to decide to what extent,
9 if at all, the witness' interest has affected or colored his
10 or her testimony.

11 In this case I have permitted multiple witnesses
12 including Amber Burns, Christopher Bush, Christopher Iber,
13 Brandon Moroney, Mitchell Dinterman, Julie Kempton, Romy
14 Franco, and Mathew Wilde to express their opinions about
15 matters that are in issue. A witness may be permitted to
16 testify to an opinion on those matters about which he or she
17 has special knowledge, skill, experience, and training. Such
18 testimony is presented to you on the theory that someone who
19 is experienced and knowledgeable in the field can assist you
20 in understanding the evidence or reaching an independent
21 decision on the facts.

22 In weighing this opinion testimony you may consider the
23 witness' qualifications, opinions, the reasons for testifying,
24 as well as all of the other considerations that ordinarily
25 apply when you are deciding whether or not to believe a

1 witness' testimony. You may give the opinion testimony
2 whatever weight, if any, you find it deserves in light of all
3 of the evidence in this case. You should not, however, accept
4 opinion testimony merely because they allowed the witness to
5 testify to an opinion. Nor should you substitute it for your
6 own reason, judgment, and common sense. The determination of
7 the facts in this case rest solely with you.

8 You've heard the testimony of law enforcement officers.
9 The fact that a witness may be employed by the federal or
10 state government as a law enforcement officer does not mean
11 that his or her testimony is necessarily deserving of more or
12 less consideration, or greater or lesser weight than an
13 ordinary witness. At the same time, it is quite legitimate for
14 defense counsel to try to attack the credibility of a law
15 enforcement witness on the grounds that his or her testimony
16 may be colored by a personal or professional interest in the
17 outcome of the case. It is your decision after reviewing all
18 of the evidence, whether to accept the testimony of a law
19 enforcement witness and to give that testimony whatever
20 weight, if any, you find it deserves.

21 The Government has called as witnesses individuals who
22 are alleged by the Government to be co-conspirators but who
23 are not charged as defendants. The Government may argue as it
24 is permitted to do that it must take the witnesses as it find
25 them and that only people who themselves take part in criminal

1 activity have the knowledge required to show criminal behavior
2 by others. For these reasons, the law allows the use of
3 co-conspirator testimony. The testimony of co-conspirators may
4 be enough in itself for a conviction if the jury finds that
5 the testimony establishes guilt beyond a reasonable doubt.
6 However, it is also the case that co-conspirator testimony is
7 of such nature that it must be scrutinized with great care and
8 viewed with particular caution when you decide how much of
9 that testimony to believe. You should consider whether the
10 witnesses have an interest in the outcome of this trial and
11 whether they have a motive to testify falsely. You may accept
12 their testimony if you believe it to be true, but it is up to
13 you, the jury, to decide what weight, if any, to give to the
14 testimony.

15 You have heard the testimony of certain witnesses who
16 have been promised that in exchange for testifying truthfully,
17 completely, and fully, they will not be prosecuted for any
18 crimes that may have been admitted -- that they may have
19 admitted either here in court or in interviews with the
20 prosecutors. This promise was not a formal order of immunity
21 by the Court, but was arranged directly between the witness
22 and the Government. The Government is permitted to make these
23 kinds of promises and may call as witnesses individuals to
24 whom such promises have been given. You may convict a
25 defendant on the basis of such a witness' testimony alone if

1 you find that his testimony proves the defendant guilty beyond
2 a reasonable doubt. However, the testimony of a witness who
3 has been promised that he will not be prosecuted should be
4 examined by you with greater care than the testimony of an
5 ordinary witness and should be received with suspicion. You
6 should scrutinize it closely to determine whether or not it is
7 colored in such a way as to place guilt upon the defendant in
8 order to further the witness' own interest. Such a witness
9 when confronted with the realization that he can win his own
10 freedom by helping to convict another has a motive to falsify
11 his testimony. Ultimately, you may give the testimony of such
12 a witness such weight, if any, that you believe it deserves.

13 You've heard testimony from Government witnesses who have
14 pleaded or will plead guilty after entering into an agreement
15 with the Government to testify. There's evidence that the
16 Government promised to bring these witnesses' cooperation to
17 the attention of the sentencing Court in exchange for the
18 witness' agreement to plead guilty and testify on behalf of
19 the Government. The Government is permitted to enter into this
20 kind of plea agreement. You may accept the testimony of such a
21 witness and convict the defendants on the basis of this
22 testimony alone if it convinces you of the defendant's guilt
23 beyond a reasonable doubt.

24 However, you should bear in mind that a witness who has
25 entered into such an agreement has an interest in this case

1 different than an ordinary witness. A witness who realizes
2 that he may be able to obtain his freedom or get a lighter
3 sentence by giving testimony favorable to the prosecution has
4 a motive to testify falsely. Therefore, you must examine his
5 testimony with caution and with great care. If after
6 scrutinizing his testimony you decide to accept it, you may
7 give it whatever weight, if any, you find it deserves.

8 You've heard the testimony of a witness who was
9 previously convicted of a crime punishable by more than one
10 year of imprisonment. This prior conviction was brought into
11 evidence for you to consider in evaluating the witness'
12 credibility. You may consider the fact that the witness who
13 testified is a convicted felon in deciding how much of his
14 testimony to accept and what weight, if any, it should be
15 given.

16 There has been evidence that a witness who testified at
17 this trial made false statements under oath in court
18 proceedings in another case. If you find that the witness lied
19 under oath in another case, the testimony of this witness
20 should be viewed cautiously and weighed with great care. It
21 is, however, for you to decide how much of his testimony, if
22 any, you wish to believe.

23 There are several persons whose names you heard during
24 the course of the trial, but who did not appear to testify.
25 Each party had an equal opportunity or lack of opportunity to

1 call any of these witnesses. Therefore, you should not draw
2 any inferences or reach any conclusions as to what their
3 testimony would have been had they been called to testify.
4 Their absence should not affect your judgment in any way. You
5 should, however, remember that the law does not impose on a
6 defendant in a criminal case the burden or duty of calling any
7 witnesses or producing any evidence.

8 The Government has introduced evidence that the
9 defendants made certain statements in which according to the
10 Government, they admitted certain facts charged in the
11 indictment in this case. In deciding what weight to give to
12 the defendants' statements, you should first examine with
13 great care whether each statement was made and whether in fact
14 it was knowingly and voluntarily made. You are to give the
15 statements such weight as you believe they deserve in light of
16 all of the evidence. I instruct you, however, that the
17 evidence of one defendant's statement to law enforcement about
18 his own conduct may not be considered by you in any way
19 against any defendant on trial other than the defendant who
20 made the statement.

21 You've heard testimony that the defendants made certain
22 statements outside the courtroom to law enforcement
23 authorities and witnesses in which the defendants claimed that
24 their conduct was consistent with innocence and not with
25 guilt. The Government claims that these statements in which

1 they exonerated or exculpated themselves are false. If you
2 find that a defendant gave a false statement or false
3 statements in order to divert suspicion from himself, you may
4 but are not required to infer that the defendant believed that
5 he was guilty. You may not, however, infer on the basis of
6 this alone that the defendant is, in fact, guilty of the crime
7 for which he is charged.

8 Whether the evidence as to a defendant's statements shows
9 that the defendant believed that he was guilty and the
10 significance, if any, to be attached to such evidence are
11 matters for you, the jury, to decide.

12 You've heard testimony that one of the defendants
13 knowingly attempted to destroy evidence in this case. If you
14 find that the defendant attempted to destroy evidence in order
15 to mislead investigating authorities, you may, but need not,
16 infer that the defendant believed that he was guilty. You may
17 not, however, infer on the basis of this alone that the
18 defendant is in fact guilty of the crime for which he is
19 charged. Whether evidence that the defendant destroyed
20 evidence shows that the defendant believed that he was guilty
21 and the significance, if any, to be given to such evidence are
22 matters for you, the jury, to decide.

23 Now the defendants did not testify in this case. Under
24 our constitution, a defendant has no obligation to testify or
25 to present any other evidence because it is the Government's

1 burden to prove the defendants guilty beyond a reasonable
2 doubt. That burden remains with the Government throughout the
3 entire trial and never shifts to the defendants. A defendant
4 is never required to prove that he or she is innocent. You may
5 not attach any significance to the fact that the defendants
6 did not testify. No adverse inference against the defendants
7 may be drawn by you because they did not take the witness
8 stand. You may not consider this against the defendants in any
9 way in your deliberations in the jury room.

10 Now with these general instructions in mind, I will now
11 turn to the charges against the defendants as contained in the
12 second superseding indictment which I will refer to as "the
13 indictment" for short. I emphasize to you that an indictment
14 itself is not evidence and merely describes the charges made
15 against the defendant. It is an accusation and may not be
16 considered by you in any way as evidence of the guilt of that
17 defendant.

18 In reaching your determination as to whether the
19 Government has proved that the defendants are guilty beyond a
20 reasonable doubt, you may consider only the evidence
21 introduced or the lack of evidence. Your role is to decide
22 whether or not the Government has proven beyond a reasonable
23 doubt that the defendants, Scott Anthony Williams and Taeyan
24 Raymond Williams, are guilty of one or more of the charged
25 crimes. You are not being asked whether any other person has

1 been proven guilty. Your verdict should be based solely upon
2 the evidence or lack of evidence as to the defendants in
3 accordance with my instructions, and without regard as to
4 whether the guilt of any other person has or has not been
5 proven. You may not draw any inferences, favorable or
6 unfavorable towards the Government or the defendants on trial
7 from the fact that certain persons were not named as
8 defendants in the indictment or identified as co-conspirators
9 but not charged. The fact that such persons are not defendants
10 in this trial must play no part in your deliberations. Whether
11 a person should be named as a co-conspirator in a matter is a
12 matter within the sole discretion of the United States
13 Attorney and the grand jury. Therefore, you may not consider
14 it in any way in reaching your verdict as to the defendants on
15 trial.

16 The indictment names two defendants who are on trial
17 together. In reaching a verdict, however, you must bear in
18 mind that guilt is individual. Your verdict as to each
19 defendant must be determined separately with respect to him,
20 solely on the evidence or lack of evidence presented against
21 him without regard to the guilt or innocence of anyone else.
22 In addition, some of the evidence in this case was limited to
23 one defendant. Specifically, the statements made by Scott
24 Williams to Sergeant Simms during the execution of the search
25 warrant at the Bristolwood Court residence are admissible only

1 against Scott Williams and may not be considered as evidence
2 against Taeyan Williams. Let me emphasize that any evidence
3 admitted solely against one defendant may be considered only
4 against that defendant and may not in any respect enter into
5 your deliberations on any other defendant.

6 The defendants are not charged with committing any crimes
7 other than the offenses contained in the indictment. I
8 emphasize to you now that you are not to consider that
9 evidence for any other purpose and you are to return a verdict
10 only as to the charges contained in the indictment.

11 The indictment contains a total of nine counts. Each
12 count charges a defendant with a different crime. You must as
13 a matter of law consider each count of the indictment and each
14 defendant's involvement in that count separately and you must
15 return a separate verdict on each defendant for each count on
16 which he is charged. The case against each defendant or on
17 each count stands or falls upon the proof or lack of proof
18 against the defendant alone -- that defendant alone. And your
19 verdict as to any defendant on any count should not control
20 your decision as to any other defendant or any other count.

21 The indictment alleges that the offenses occurred on
22 certain dates or at certain times. It does not matter if that
23 indictment charges that a specific act occurred on or about a
24 certain date or time and the evidence shows that in fact it
25 was on another date or time. The law only requires a

1 substantial similarity between the dates alleged in the
2 indictment and the dates established by testimony or exhibits.

3 Although the indictment may charge the defendants with
4 committing an offense in several ways, that is, by using the
5 word "and" between the multiple means of committing the
6 offense, it's not necessary for the Government to prove that a
7 defendant did each of the facts named in a particular count of
8 the indictment. It is sufficient for the Government if the
9 Government proves beyond a reasonable doubt that a defendant
10 did one of the alternative acts as charged, as long as you all
11 agree that the same particular alternative act was committed
12 by the defendant and that every element of the offense has
13 been proven beyond a reasonable doubt.

14 So the indictment contains nine counts against the
15 defendants as follows: Count One charges both defendants with
16 conspiracy to distribute and possess with intent to distribute
17 controlled substances; Count Two charges both defendants with
18 conspiracy to interfere with interstate commerce by robbery or
19 extortion; Count Three charges both defendants with
20 interference with interstate commerce by robbery or extortion;
21 Count Four charges both defendants with kidnapping with death
22 resulting; Count Five charges both defendants with possessing,
23 using, carrying and brandishing a firearm during and in
24 relation to and in furtherance of a crime of violence or a
25 drug trafficking crime; Count Six charges both defendants with

1 possession with intent to distribute controlled substances;
2 Count Seven charges defendant, Scott Anthony Williams, with
3 possession with intent to distribute controlled substances;
4 Count Eight charges defendant, Scott Anthony Williams, with
5 possession of a firearm in furtherance of a drug trafficking
6 crime; and Count Nine charges defendant, Scott Anthony
7 Williams, with conspiracy to destroy or conceal evidence.

8 The defendants have pleaded not guilty to these charges.
9 In order to help you understand the charges, I will discuss
10 these nine counts in three groups. First, there are Counts
11 Three, Four, Six and Seven which I will refer to as the
12 substantive counts which are specific federal crimes.

13 Second, there are Counts One, Two and Nine which I will
14 refer to as the conspiracy counts because they all involve a
15 charge of conspiracy to commit other crimes, including some of
16 the substantive offenses.

17 Third, there are Counts Five and Eight which I will refer
18 to as the firearms counts because they each involve a charge
19 relating to firearms possessed or used in connection with one
20 or more of the substantive or conspiracy counts.

21 Because an understanding of the substantive counts is
22 necessary in order to understand the conspiracy counts and the
23 firearms counts, I will discuss the substantive counts first,
24 then the conspiracy counts, and finally the firearms counts.

25 Count Three -- I'll start with Count Three. The

1 indictment charges the defendants, Scott Anthony Williams and
2 Taeyan Raymond Williams, with interference with interstate
3 commerce by robbery or extortion. The indictment reads as
4 follows: On or about April 6, 2018 in the District of
5 Maryland, the defendants, Scott Anthony Williams and Taeyan
6 Raymond Williams, did knowingly and unlawfully obstruct,
7 delay, and affect and attempt to obstruct, delay, and affect
8 commerce by robbery and extortion as those terms are defined
9 in 18 United States Code § 1951 by (a), the unlawful taking
10 and obtaining of personal property from the person and in the
11 presence of Noah Smothers, including marijuana, marijuana
12 products, money, a cellular device, a PIN for Smothers'
13 storage unit, Smothers' Kia Sportage, and other items that
14 were in Smothers' possession against Smothers' will by means
15 of actual and threatened force and violence and fear of
16 injury, immediate and future, to Noah Smothers' person and
17 property.

18 And (b), the obtaining of property from Smothers
19 including marijuana, marijuana products, money, a cellular
20 device, a PIN for Smothers' storage unit, Smothers' Kia
21 Sportage and other items that were in Smothers' possession and
22 stored at the Jessup storage facility without Smothers'
23 consent induced by wrongful use of actual and threatened
24 force, violence, and fear.

25 In order to find the defendant guilty of Count Three you

1 must find that the defendant committed either 1) interference
2 with interstate commerce by robbery; or 2) interference with
3 interstate commerce by extortion.

4 Robbery is the unlawful taking or obtaining of personal
5 property of another against his will by threatening or
6 actually using force, violence, or fear of injury, immediately
7 or in the future, to person or property. In order to prove
8 that a defendant interfered with interstate commerce by
9 robbery, the Government must prove each of the following
10 elements beyond a reasonable doubt: First, that the defendant
11 knowingly obtained or took the personal property of another
12 person or from the presence of another person; second, that
13 the defendant took this property against the victim's will by
14 actual or threatened force, violence, or fear of injury,
15 whether immediately or in the future; and third, that as a
16 result of the defendant's actions interstate commerce or an
17 item moving in interstate commerce was delayed, obstructed, or
18 affected in any way or degree.

19 The first element the Government must prove beyond a
20 reasonable doubt is that the defendant knowingly obtained or
21 took the personal property of another person, or from the
22 presence of another person. A person acts knowingly if he acts
23 intentionally and voluntarily, not because of ignorance,
24 mistake, accident, or carelessness. The term "property"
25 includes money or other tangible and intangible things of

1 value that are capable of being transferred from one person to
2 another. Specifically, the defendants are alleged to have
3 taken the personal property of Noah Smothers, including
4 marijuana, marijuana products, money, a cellular device, a PIN
5 for his storage unit, his Kia Sportage, and other items that
6 were in his possession and stored at the Jessup storage
7 facility.

8 The second element the Government must prove beyond a
9 reasonable doubt is that the defendant unlawfully took this
10 property against the victim's will by actual or threatened
11 force, violence, or fear of injury whether immediately or in
12 the future. In considering whether the defendant used or
13 threatened to use force, violence, or fear, you should give
14 those words their common and ordinary meaning and understand
15 them as you normally would. The use or threat of violence does
16 not have to be directed at the person whose property was
17 taken. The use or threat of violence does not have to be
18 directed at the -- the use or threat of force might be aimed
19 at a third person or causing economic rather than physical
20 injury. A threat may be made verbally or by a physical
21 gesture. Whether a statement or physical gesture was a threat
22 depends upon the surrounding facts.

23 Fear exists if a victim experiences anxiety, concern, or
24 worry over expected personal harm or business loss or over
25 financial or job security. The existence of fear must be

1 determined by the facts existing at the time of the
2 defendant's actions. Whether a defendant used or threatened
3 fear of injury involves a decision about the victim's state of
4 mind at the time of the offense. Although it is impossible to
5 ascertain or prove directly a person's subjective feeling, a
6 careful consideration of the circumstances and evidence should
7 enable you to decide whether fear would reasonably have been
8 the victim's state of mind. Looking at the situation and the
9 actions of people involved may help you to determine what
10 their state of mind was. You can consider such circumstantial
11 evidence in deciding whether the property was obtained by the
12 use or threat of fear.

13 You may also consider the relationship between the
14 defendant and the alleged victim in deciding whether the
15 elements of fear exists. However, a friendly relationship
16 between the parties does not mean that you cannot find that
17 fear exists.

18 The third element that the Government must prove beyond a
19 reasonable doubt is that the defendant's actions affected
20 interstate commerce in any way or degree. You must determine
21 whether there's an actual or potential effect on commerce
22 between any two or more states, or between one state and the
23 District of Columbia, or between a state and a U.S. territory
24 or possession, or on commerce within one state that goes
25 through anyplace outside that state.

1 The effect can be minimal. If you decide that interstate
2 commerce would potentially or probably be affected if the
3 defendant had successfully and fully completed his actions,
4 then the element of affecting interstate commerce is
5 satisfied. However, if the defendant has finished his actions
6 and done all he intended to do and you find there has been no
7 effect on interstate commerce, then you cannot find that this
8 element has been established.

9 You do not have to decide whether the effect on
10 interstate commerce was harmful or beneficial to a particular
11 business or to commerce in general. The Government satisfied
12 his burden of proving an effect on interstate commerce if it
13 proved beyond a reasonable doubt any effect, whether it was
14 harmful or not. The defendant need not have intended or
15 anticipated an effect on interstate commerce. If you find that
16 the defendant intended to take certain actions, that is, he
17 did the acts charged in the indictment in order to obtain
18 property, and you find those actions have either caused or
19 would probably cause an effect on interstate commerce, then
20 you may find the requirements of this element have been
21 satisfied.

22 The distribution and trafficking of controlled substances
23 affects interstate commerce. If you find that the defendant
24 took controlled substances from Noah Smothers, including
25 marijuana or illegal proceeds derived from controlled

1 substances including marijuana, that is sufficient to find
2 that the offense had an effect on interstate commerce.

3 Extortion is the obtaining of another person's property
4 or money with his consent. This consent is induced or brought
5 upon through the use or threatened use of force, violence, or
6 fear. In order to prove that a defendant interfered with
7 interstate commerce by extortion, the Government must prove
8 each of the following elements beyond a reasonable doubt.

9 First, that the defendant wrongfully obtained the property of
10 another person; second, that the defendant obtained this
11 property with the victim's consent, but that this consent was
12 compelled by the wrongful use or threat of force, violence, or
13 fear; and third, that as a result of the defendant's actions,
14 interstate commerce or an item moving in interstate commerce
15 was delayed, obstructed, or affected in any way or degree.

16 The first element that the Government must prove beyond a
17 reasonable doubt is that the defendant wrongfully obtained or
18 took the personal property of another person or from the
19 presence of another person. The term "property" includes money
20 and other tangible and intangible things of value that are
21 capable of being transferred from one person to another.

22 Specifically, the defendants are alleged to have taken the
23 personal property of Noah Smothers including marijuana,
24 marijuana products, money, a cellular device, a PIN for a
25 storage unit, his Kia Sportage, and other items that were in

1 his possession and stored at the Jessup storage facility.

2 If you decide that force or violence used or threatened
3 to -- was used or threatened to obtain the property, then that
4 is wrongful. If you do -- you do not have to consider whether
5 the defendant believed that the property is rightfully his.
6 Using force or violence, or threats of force or violence to
7 obtain property is wrongful.

8 The second element that the Government must prove beyond
9 a reasonable doubt is that the defendant wrongfully took the
10 property by actual or threatened force, violence, or fear of
11 injury, or economic harm whether immediately or in the future.
12 In considering whether the defendant used or threatened to use
13 force, violence, or fear, you should give those words their
14 common and ordinary meaning and understand them as you
15 normally would. The use or threat of violence does not have to
16 be directed at the person whose property was taken. The use or
17 threat of force or violence might be aimed at a third person
18 or causing economic, rather than physical injury.

19 A threat may be made verbally or by a physical gesture.
20 Whether a statement or physical gesture was a threat depends
21 upon the surrounding circumstances -- upon the surrounding
22 facts.

23 As to fear of injury, you should apply instruction number
24 48 which I just described which relates to this issue for the
25 crime of interference with interstate commerce by robbery.

1 The third element that the Government must prove beyond a
2 reasonable doubt is that the defendant's actions affected
3 interstate commerce in any way or degree. In considering this
4 element, you should apply instruction number 49 relating to
5 the crime of interference with interstate commerce by robbery.

6 So next is Count Four of the indictment which charges the
7 defendants, Scott Anthony Williams and Taeyan Raymond
8 Williams, with kidnapping resulting in death. The indictment
9 reads as follows: On or about April 6, 2018 in the District of
10 Maryland and elsewhere, the defendants, Scott Anthony Williams
11 and Taeyan Raymond Williams, did unlawfully seize, confine,
12 inveigle, decoy, kidnap, abduct, and carry away Noah Smothers
13 and held Smothers for ransom and reward and otherwise for any
14 reason that was of benefit to the defendants, including but
15 not limited to gain access to Smothers' storage unit, to avoid
16 paying a debt owed by the defendants to Smothers, and to
17 become the local intermediary for shipments of marijuana from
18 Jacob Rayburn in California when a defendant used a means,
19 facility, and instrumentality of interstate commerce. That is
20 a cell phone, the internet, and a rental vehicle in committing
21 and in furtherance of the commission of the offense which
22 conduct resulted in the death of Smothers.

23 In order to prove that a defendant committed the crime of
24 kidnapping with death resulting, the Government must prove
25 each of the following elements beyond a reasonable doubt:

1 First, that the defendant seized, confined, inveigled,
2 decoyed, kidnapped, or carried away Noah Smothers; second,
3 that the defendant held Mr. Smothers for ransom, reward, or
4 for any other reason; third, that the defendant used a means,
5 facility, or instrumentality of interstate commerce in
6 committing or in furtherance of the commission of the offense;
7 fourth, that the defendant acted unlawfully, knowingly, and
8 willfully; and fifth, that the defendant's acts resulted in
9 the death of Mr. Smothers.

10 The first element that the Government must prove beyond a
11 reasonable doubt is that the defendant seized, confined,
12 inveigled, decoyed, kidnapped, abducted, or carried away Noah
13 Smothers. Kidnap means to take and carry away a person by
14 force and against his or her will. Seize, confine, abduct, and
15 carry away all mean the physical or bodily taking and carrying
16 away of a person, or the holding or restricting of someone by
17 force or without that person's consent. Inveigle means the
18 enticement, cajoling, or tempting of a victim, usually through
19 some deceitful means such as false promises or
20 representations. Decoy means the enticement or luring of a
21 victim by means of some fraud, trick, or temptation.
22 Inveigling and decoying involve the non-forceful takings of a
23 victim by which a kidnapper lures or entices the victim into
24 accompanying him.

25 To find the defendant inveigled or decoyed Noah Smothers

1 into accompanying them, you must find beyond a reasonable
2 doubt that the defendant had the willingness and intent to use
3 physical or psychological force to complete the kidnapping in
4 the event that the deception failed.

5 The second element that the Government must prove beyond
6 a reasonable doubt is that the defendant held Noah Smothers
7 for ransom, reward, or some other reason. In this count the
8 Government charges that the defendant held Noah Smothers in
9 order to gain access to Noah Smothers' storage unit, avoid
10 paying a debt owed by the defendants to Mr. Smothers, and
11 become the local intermediary for shipments of marijuana from
12 Jacob Rayburn in California. This element is satisfied if the
13 Government proves that at the time that a defendant seized,
14 confined, or kidnapped Noah Smothers, the defendant did so for
15 any of the purposes or reasons charged in the indictment. If
16 you find the defendant did not hold Noah Smothers for the
17 reasons charged in the indictment or if you have a reasonable
18 doubt as to this element, then you must find that defendant
19 not guilty.

20 The third element that the Government must prove beyond a
21 reasonable doubt is that the defendant used a means, facility,
22 or instrumentality of interstate or foreign commerce in
23 committing or in furtherance of the commission of the offense.
24 The term means, facility, or instrumentality of interstate or
25 foreign commerce includes the use of a telephone, the

1 internet, or a rental vehicle in furtherance of the commission
2 of the offense.

3 The fourth element that the Government must prove beyond
4 a reasonable doubt is that the defendant acted unlawfully,
5 knowingly, and willfully. Unlawfully means contrary to law. An
6 act is done knowingly if it is done purposely and
7 intentionally as opposed to mistakenly or inadvertently. An
8 act is done willfully if it is done knowingly and with the
9 intent to do something the law forbids or with a bad purpose
10 either to disobey or disregard the law.

11 In order to satisfy this element, the Government must
12 show that the defendant knew that Noah Smothers was not
13 accompanying him voluntarily, but instead was forced, coerced,
14 or tricked to come along.

15 The fifth element that the Government must prove beyond a
16 reasonable doubt is that Noah Smothers is dead and that his
17 death resulted from the willful and intentional conduct of the
18 defendant. In order to establish that a defendant's conduct
19 resulted in the death of Noah Smothers, the Government must
20 prove beyond a reasonable doubt that but for the defendant's
21 actions, Noah Smothers would not have died.

22 Now if after careful consideration of all of the evidence
23 you find that as to a particular defendant the Government has
24 not proven each of the elements of kidnapping with death
25 resulting beyond a reasonable doubt, then you must find that

1 defendant not guilty on that charge. In that instance you must
2 then consider whether the defendant is guilty of the lesser
3 included offense of kidnapping. Kidnapping has the same first
4 four elements as kidnapping with death resulting, but does not
5 include the fifth element of death resulting. Thus to prove
6 the charge of kidnapping, the Government must establish each
7 of the following elements beyond a reasonable doubt: First,
8 that the defendant seized, confined, inveigled, decoyed,
9 kidnapped, abducted, or carried away Noah Smothers; second,
10 that the defendant held Mr. Smothers for ransom, reward, or
11 for any other reason; third, the defendant used a means,
12 facility, or instrumentality of interstate commerce in
13 committing or in furtherance of the commission of the offense;
14 and fourth, that the defendant acted unlawfully, knowingly and
15 willfully.

16 If you find that the Government has proven all of these
17 elements beyond a reasonable doubt then you must find the
18 defendant guilty of the lesser included offense to Count Four,
19 kidnapping.

20 Count Six and Seven of the indictment charge both
21 defendants, Scott Anthony Williams and Taeyan Williams -- I'm
22 sorry, Count Six of the indictment charges both defendants,
23 Scott Anthony Williams and Taeyan Raymond Williams with
24 possession with intent to distribute a controlled substance.
25 The indictment reads as follows: On or about June 6, 2018 in

1 the District of Maryland, the defendants, Scott Anthony
2 Williams and Taeyan Raymond Williams, did knowingly possess
3 with the intent to distribute a mixture and substance
4 containing a detectable amount of cocaine, a Schedule II
5 controlled substance, and a mixture and substance containing a
6 detectable amount of marijuana, a Schedule I controlled
7 substance.

8 Count Seven of the indictment charges defendant Scott
9 Anthony Williams with possession with intent to distribute
10 controlled substances. The indictment reads as follows: On or
11 about June 6, 2018 in the District of Maryland, the defendant,
12 Scott Anthony Williams, did knowingly possess with the intent
13 to distribute 500 grams or more of a mixture and substance
14 containing a detectable amount of methamphetamine, its salts,
15 isomers, and salts of its isomers, a Schedule II controlled
16 substance.

17 In order to prove that a defendant committed the crime of
18 possession with intent to distribute a controlled substance,
19 the Government must prove each of the following elements
20 beyond a reasonable doubt: First, that the defendant possessed
21 a controlled substance; second, that the defendant knew that
22 he possessed the controlled substance; and third, that the
23 defendant possessed the controlled substance with the intent
24 to distribute it.

25 The first element that the Government must prove beyond a

1 reasonable doubt is that the defendant possessed a controlled
2 substance. For purposes of Count Six, I instruct you that
3 cocaine and marijuana are controlled substances. For purposes
4 of Count Seven, I instruct you that methamphetamine is a
5 controlled substance.

6 Possession of a controlled substance may be actual or
7 constructive. Actual possession is what most of us think of as
8 possession, that is, having physical custody or control of an
9 object. For example, if you find that the defendant had the
10 drugs on his person, you may find that he had possession of
11 the drugs. However, a person may need not have actual physical
12 custody of an object in order to be in legal possession of
13 that item. Constructive possession occurs when an individual
14 has the ability and intent to exercise substantial control
15 over an object that he does not have in his physical custody.

16 An example of this from everyday experience is a person's
17 possession of items kept in the safe deposit box of his bank.
18 Although the person does not have physical custody of those
19 items, he exercises substantial control over them and so has
20 legal possession of them.

21 Possession may be sole or joint. If one person alone
22 possesses something, that is sole possession. However, it is
23 possible that more than one person has the power and intention
24 to exercise control over the drugs. This is called joint
25 possession. If you find that the individual had such power and

1 intention that he possessed the drugs under this element, then
2 he possessed the drug under this element even if he possessed
3 the drugs jointly with another person. Possession of drugs
4 cannot be found solely on the ground that the defendant was
5 near or close to the drugs, nor can be found merely because
6 the defendant was present at a scene where drugs were involved
7 or solely because the defendant associated with a person who
8 did control drugs or the property at which they were found.
9 However, you may consider these factors in connection with all
10 the other evidence in making your decision whether a defendant
11 possessed the drugs.

12 To establish that a defendant knew that the drug was a
13 controlled substance the Government must prove that the
14 defendant knew that he possessed a controlled substance and
15 that his possession was not due to carelessness, negligence,
16 or mistake. If you find that the defendant did not know that
17 he had controlled substances in his possession or he did not
18 know that what he possessed was, in fact, controlled
19 substances, then you must find the defendant not guilty.

20 Although the Government must prove that the defendant
21 knew that he possessed a controlled substance, the Government
22 does not have to prove that the defendant knew the exact
23 nature of the controlled substance in his possession. It is
24 enough that the Government prove that the defendant knew that
25 he possessed some kind of controlled substance.

1 The third element that the Government must prove beyond a
2 reasonable doubt is that the defendant intended to distribute
3 the controlled substance. To distribute a controlled substance
4 means to deliver a controlled substance. Deliver is defined as
5 the actual, constructive, or attempted transfer of a
6 controlled substance. Distribute and deliver mean to pass on
7 or to hand over to another, or to cause to be passed on or
8 handed over to another, or to try to pass on or hand over to
9 another. For example, if A tells or orders B to hand over the
10 controlled substance to C, then A has caused the controlled
11 substance to be handed over and therefore has distributed it.

12 Distribution does not require a sale. Activities in
13 furtherance of the ultimate sale such as vouching for the
14 quality of controlled substance, negotiating for or receiving
15 the price, and supplying or delivering the controlled
16 substance may constitute distribution. In short, distribution
17 requires a concrete involvement in the transfer of the
18 controlled substance.

19 To establish intent to distribute, the Government must
20 prove that the defendant had control over the controlled
21 substance with a state of mind or purpose to transfer it to
22 another person. You need not find the defendant intended
23 personally to distribute or deliver the controlled substance.
24 It is sufficient if you find that the defendant intended to
25 cause or assist in the distribution of the controlled

1 substance.

2 Since you cannot read the defendant's mind, you may make
3 inferences from the defendant's behavior. However, you may not
4 convict the defendant unless these inferences convince you
5 beyond a reasonable doubt that the defendant intended to
6 distribute the drugs. The same considerations that apply to
7 your determination whether the defendant knew he possessed
8 drugs apply to your decision concerning the defendant's
9 intention to distribute them.

10 In assessing intent to distribute, what you are
11 determining is whether the drugs possessed by the defendant
12 were for the defendant's personal use or for the purpose of
13 distribution. Often it is possible to make this determination
14 from the quantity of drugs involved in the offense. For
15 example, it would be highly unlikely that a person with 50,000
16 doses of a drug possessed them all for personal consumption.
17 The presence of a large quantity of drugs does not necessarily
18 mean that the defendant intended to distribute them. On the
19 other hand, a defendant may have intended to distribute drugs
20 even if he did not possess large amounts of them. Other
21 physical evidence such as paraphernalia for the packaging or
22 processing of drugs can show such an intent. There might also
23 be evidence of a plan to distribute.

24 Next I will discuss the conspiracy counts which are
25 Counts One, Two, and Nine. In each of these counts, the

1 defendants are charged with having been members of a
2 conspiracy to violate certain federal laws. A conspiracy is a
3 kind of criminal partnership, a combination or agreement of
4 two or more persons to join together to accomplish an unlawful
5 purpose. The crime of conspiracy to violate a federal law is
6 an independent offense. It is separate and distinct from the
7 actual violation of any substantive crime such as those
8 charged in Counts Three, Four, Six, and Seven. Thus, you may
9 find a defendant guilty of the crime of conspiracy to commit
10 an offense even though the substantive crime that was the
11 object of the conspiracy was not actually committed. You may
12 also find a defendant guilty of conspiracy even if he was
13 incapable of committing the substantive offense. Congress has
14 deemed it appropriate to make conspiracy standing alone a
15 separate crime even if the conspiracy is not successful. That
16 is because collective criminal activity poses a greater threat
17 to the public safety and welfare than individual conduct and
18 increases the likelihood of success of a particular criminal
19 venture.

20 Count One of the indictment charges the defendants, Scott
21 Anthony Williams and Taeyan Raymond Williams, with conspiracy
22 to distribute and possess with intent to distribute controlled
23 substances. The indictment reads as follows: Beginning no
24 later than August 2016 and continuing through at least on or
25 about June 6, 2018, in the District of Maryland and elsewhere,

1 the defendants, Scott Anthony Williams and Taeyan Raymond
2 Williams did knowingly combine, conspire, confederate and
3 agree with each other, Noah Smothers and others known and
4 unknown to the grand jury, to distribute and possess with the
5 intent to distribute controlled substances including a mixture
6 and substance containing a detectable amount of cocaine, a
7 Schedule II controlled substance; and a mixture and substance
8 containing a detectable amount of marijuana, a Schedule I
9 controlled substance, all in violation of 21 United States §
10 841(a)(1).

11 In order to establish that a defendant is guilty of
12 conspiracy to distribute and possess with intent to distribute
13 controlled substances, the Government must prove each of the
14 following elements beyond a reasonable doubt: First, that two
15 or more persons entered into the unlawful agreement charged in
16 Count One of the indictment, specifically an unlawful
17 agreement to distribute and possess with the intent to
18 distribute controlled substances including cocaine and
19 marijuana; and second, that the defendant knowingly and
20 willfully became a member of the conspiracy with the intent to
21 further its unlawful purpose.

22 I've already provided you with instructions on
23 distribution of and possession with intent to distribute
24 controlled substances in instructions number 62 through 66.
25 You should consider those instructions in determining whether

1 the commission of the crime of distribution or possession with
2 intent to distribute controlled substances was the object of
3 the conspiracy. However, you may find the defendant guilty of
4 the crime of conspiracy to distribute or possess with intent
5 to distribute controlled substances even if it was not
6 actually committed.

7 The first element that the Government must prove beyond a
8 reasonable doubt to establish the offense of conspiracy is
9 that two or more persons entered the unlawful agreement
10 charged in the relevant count of the indictment. In order for
11 the Government to satisfy this element, you need not find that
12 the alleged members of the conspiracy met together and entered
13 into any express or formal agreement. Similarly, you need not
14 find that the alleged co-conspirator stated in words or in
15 writing what the scheme was, its object or purpose, or every
16 precise detail of the scheme or the means by which its object
17 or purpose was to be accomplished. What the Government must
18 prove is that there was a mutual understanding, either spoken
19 or unspoken, between two or more persons -- two or more people
20 to cooperate with each other to accomplish an unlawful act.

21 You may find that the existence of an agreement to
22 disobey or disregard the law has been established by direct
23 proof. However, since conspiracy is by its very nature
24 characterized by secrecy, you may also infer its existence
25 from the circumstances of this case and the conduct of the

1 parties involved. In the context of conspiracy cases, actions
2 often speak louder than words. You may in determining whether
3 an agreement existed here, consider the actions and statements
4 of all of those you find to be participants as proof that a
5 common design existed on the part of the persons charged to
6 act together to accomplish an unlawful purpose.

7 The second element that the Government must prove beyond
8 a reasonable doubt to establish the offense of conspiracy is
9 that the defendant knowingly, willfully, and voluntarily
10 became a member of the conspiracy with the intent to further
11 its unlawful purpose. In deciding whether a particular
12 defendant was in fact a member of the conspiracy, you should
13 consider whether the defendant knowingly and willfully joined
14 the conspiracy. Did he participate in it with the knowledge of
15 its unlawful purpose and with the specific intention of
16 furthering its objective as an associate or worker.

17 A person acts knowingly if he acts intentionally and
18 voluntarily and not because of ignorance, mistake, accident,
19 or carelessness. Whether the defendant acted knowingly may be
20 proven by the defendant's conduct and by all of the facts and
21 circumstances surrounding the case.

22 A person acts willfully if he acts with knowledge that
23 his conduct is unlawful and with the intent to do something
24 the law forbids. That is to say with the bad purpose to
25 disobey or to disregard the law. A defendant's conduct was not

1 willful if it was due to negligence, inadvertence, or mistake.

2 In order for a defendant to be deemed a participant in a
3 conspiracy he must have had a stake in the venture or its
4 outcome. While proof of a financial interest in the outcome of
5 a scheme is not essential, if you find that a defendant had
6 such an interest, that is a factor that you may properly
7 consider in determining whether or not the defendant was a
8 member of the conspiracy charged in this count.

9 Before a defendant can be found to have been a
10 conspirator, you must first find that he knowingly joined in
11 the unlawful agreement or plan. The key question therefore is
12 whether the defendant joined the conspiracy with an awareness
13 of at least some of the basic aims and purposes of the
14 unlawful agreement.

15 A defendant's participation in the conspiracy must be
16 established by independent evidence of his own acts or
17 statements, as well as those of the other alleged
18 co-conspirators and the reasonable inferences that may be
19 drawn from them.

20 A defendant's knowledge is a matter of inference from the
21 facts proved. To become a member of the conspiracy, a
22 defendant need not have known the identities of each and every
23 other member, nor need he have been apprised of all of their
24 activities. Moreover, a defendant need not have been fully
25 informed as to all of the details or the scope of the

1 conspiracy in order to justify an inference of knowledge on
2 his part. The defendant need not have joined in all of the
3 conspiracy's unlawful objectives.

4 The extent of a defendant's participation has no bearing
5 on the issue of a defendant's guilt. A conspirator's liability
6 is not measured by the extent or duration of his
7 participation. Indeed, each member may perform separate and
8 distinct acts and may perform them at different times. Some
9 conspirators play major roles, while others play minor parts
10 in the scheme. An equal role is not what the law requires.
11 Even a single act may be sufficient to draw the defendant
12 within the ambit of the conspiracy.

13 A defendant's mere presence at the scene of the alleged
14 crime does not by itself make him a member of the conspiracy.
15 Likewise, association with one or more members of the
16 conspiracy does not automatically make a defendant a member. A
17 person may know or be friendly with a criminal without being a
18 criminal himself. Similarity of conduct or the fact that they
19 may have assembled together and discussed common aims and
20 interest does not necessarily establish membership in the
21 conspiracy.

22 Mere knowledge or acquiescence without participation in
23 the unlawful plan is not sufficient. The fact that the acts of
24 a defendant without knowledge merely happened to further the
25 purposes or objectives of the conspiracy does not make a

1 defendant a member. More is required under the law. What is
2 necessary is that a defendant must have participated with
3 knowledge of at least some of the purposes or objectives of
4 the conspiracy and with the intention of aiding in the
5 accomplishment of those unlawful ends.

6 In sum, a defendant with an understanding of the unlawful
7 character of the conspiracy must have intentionally engaged,
8 advised, or assisted in it for the purpose of furthering the
9 illegal undertaking. He thereby becomes a knowing and willful
10 participant in the unlawful agreement, that is to say, a
11 conspirator.

12 Count Two of the indictment charges the defendants, Scott
13 Anthony Williams and Taeyan Raymond Williams, with conspiracy
14 to interfere with interstate commerce by robbery or extortion.
15 The indictment reads as follows: From on or about April 3rd to
16 or on about April 8, 2018 in the District of Maryland and
17 elsewhere, the defendants, Scott Anthony Williams and Taeyan
18 Raymond Williams, did knowingly combine, conspire,
19 confederate, and agree between each other and with other
20 persons known and unknown to the grand jury, to obstruct,
21 delay, and affect commerce and the movement of an article and
22 commodity in commerce by robbery and extortion as those terms
23 are defined in Title 18 United States Code § 1951 by (a) the
24 unlawful taking and obtaining of personal property from the
25 person and in the presence of Noah Smothers including

1 marijuana, marijuana products, money, a cellular device, a PIN
2 for Smothers' storage unit, Smothers' Kia Sportage and other
3 items that were in Smothers' possession against Smothers' will
4 by means of actual and threatened force of violence and fear
5 of injury, immediate and future to Smothers' person and
6 property. And (b), the obtaining of property from Smothers
7 including marijuana, marijuana products, money, a cellular
8 device, a PIN for Smothers' storage unit, Smothers' Kia
9 Sportage, and other items that were in Smothers' possession
10 and stored at the Jessup storage facility with Smothers'
11 consent induced by wrongful use of actual threatened force,
12 violence, and fear.

13 In order to prove that a defendant conspired to interfere
14 with interstate commerce by robbery or extortion, the
15 Government must prove each of the following elements beyond a
16 reasonable doubt: First, that two or more persons entered into
17 the unlawful agreement charged in Count Two which was an
18 agreement to commit the crime of interference with interstate
19 commerce by robbery or extortion; and second, that the
20 defendant knowingly and willfully became members of that
21 conspiracy.

22 As to the first element, instruction number 70 on the
23 existence of an agreement applies except that the unlawful
24 agreement at issue in this count is an agreement to commit the
25 crime of interference with interstate commerce by robbery or

1 extortion. I've already provided you with instruction on the
2 elements of this crime in instructions numbers 45 through 53
3 relating to Count Three. You should consider those
4 instructions in determining whether the commission of the
5 crime of interference with interstate commerce by robbery or
6 extortion was the object of the conspiracy. However, you need
7 not find that the crime of interference with interstate
8 commerce by robbery or extortion was actually committed in
9 order to find that a defendant committed the crime of
10 conspiracy to interfere with interstate commerce by robbery or
11 extortion.

12 As to the second element, membership of the conspiracy,
13 you should apply instruction number 71.

14 Count Nine of the indictment charges the defendant, Scott
15 Anthony Williams with destroying or concealing evidence in an
16 official proceeding. The indictment reads as follows: Between
17 in or about June 6, 2018 and January 24, 2019 in the District
18 of Maryland and elsewhere, the defendant, Scott Anthony
19 Williams, did knowingly combine, conspire, confederate, and
20 agree with at least one other person, known and unknown to the
21 grand jury to attempt to corruptly alter, destroy, mutilate
22 and conceal records, documents, and objects, that is,
23 methamphetamine pills, iCloud data, electronic data and
24 internet data and data stored on cellular telephones with the
25 intent to impair the records, documents, and objects'

1 integrity and availability for use in an official proceeding.

2 In order to establish that the defendant, Scott Anthony
3 Williams is guilty of conspiracy to destroy or conceal
4 evidence in an official proceeding, the Government must prove
5 each of the following elements beyond a reasonable doubt:
6 First, that two or more persons entered into an unlawful
7 agreement to commit the crime of destroying or concealing
8 evidence in an official proceeding; and second, that the
9 defendant knowingly and willfully became a member of that
10 conspiracy.

11 The first element that the Government must prove beyond a
12 reasonable doubt is that two or more persons entered into an
13 unlawful agreement set forth in Count Nine, that is, to commit
14 the crime of destroying or concealing evidence in an official
15 proceeding. The objects at issue in Count Nine are first,
16 methamphetamine pills; second, iCloud data, electronic data
17 and internet data; or third, data stored on cellular
18 telephones.

19 In determining whether two or more persons entered into
20 this unlawful agreement, you should apply instruction number
21 70 which I discussed in relation to the conspiracy charge in
22 Count One. In this instance, however, the object of the
23 conspiracy is the crime of destroying or concealing evidence
24 in an official proceeding as referenced in Count Nine.

25 To assist you in determining whether the commission of

1 this crime was the object of the conspiracy, I will provide
2 you with instructions on the elements of destroying or
3 concealing evidence in an official proceeding, which are as
4 follows: First, that the defendant altered, destroyed,
5 mutilated, or concealed any record, document, or tangible
6 object as alleged in the indictment; second, that the
7 defendant acted with the intent to impair the object's
8 integrity and availability in an official proceeding; and
9 third, that the defendant acted corruptly.

10 An official proceeding means a proceeding before a court,
11 judge, or federal agency. The proceeding may be civil or
12 criminal. You are instructed that a federal criminal trial is
13 an official proceeding. The law does not require that the
14 federal proceeding be ongoing at the time of the defendant's
15 actions, as long as the proceeding was foreseeable such that
16 the defendant knew that his or her -- that his actions were
17 likely to affect the proceeding. In addition, the Government
18 does not have to prove that the defendant knew that the
19 proceeding would be in federal court.

20 To act corruptly means to act with an improper purpose
21 and to engage in conduct knowingly and dishonestly and with
22 the intent to obstruct, impede, or influence the
23 administration of justice. You should consider these
24 instructions in determining whether the commission of the
25 crime of destroying or concealing evidence in an official

1 proceeding was the object of the conspiracy. However, you need
2 not find that this crime was actually committed in order to
3 find that a defendant committed the crime of conspiracy to
4 destroy or conceal evidence in an official proceeding.

5 For the second element, knowing and willful membership in
6 the conspiracy, you should apply instruction number 71.

7 Now I have admitted into evidence against the defendants
8 the action and statements of others because these acts and
9 statements were committed by persons who the Government
10 charges were co-conspirators of the defendants. The reason for
11 allowing this evidence to be received against the defendants
12 has to do with the nature of the crime of conspiracy. A
13 conspiracy is often referred to as a partnership in crime.
14 Thus, as in other types of partnerships, when people enter
15 into a conspiracy to accomplish an unlawful end, each and
16 every member becomes an agent for the other conspirators in
17 carrying out the conspiracy. Accordingly, the reasonably
18 foreseeable acts, declarations, statements, and omissions of
19 any member of the conspiracy that were in furtherance of the
20 common purpose of the conspiracy are deemed under the law to
21 be the acts of all of the members and all of the members are
22 responsible for such acts, declarations, statements, and
23 omissions.

24 If you find beyond a reasonable doubt that either
25 defendant was a member of the conspiracy to distribute and

1 possess with intent to distribute controlled substances as
2 charged in Count One of the indictment; the conspiracy to
3 interfere with interstate commerce by robbery or extortion as
4 charged in Count Two of the indictment; or that defendant,
5 Scott Anthony Williams, was a member of the conspiracy to
6 destroy or conceal evidence as charged in Count Nine of the
7 indictment, that any acts done or statements made in
8 furtherance of the conspiracy by persons you have found to
9 have been members of that conspiracy may be considered against
10 that defendant. This rule applies even if such acts were done
11 and statements were made in the defendant's absence and
12 without his knowledge.

13 However, before you may consider the statements or acts
14 of a co-conspirator in deciding the issue of a defendant's
15 guilt, you must first determine that the acts and statements
16 were made during the existence and in furtherance of -- during
17 the existence and in furtherance of the unlawful scheme.

18 If the acts were done or the statements made by someone
19 whom you do not find to have been a member of the conspiracy
20 or if they were not done or said in furtherance of the
21 conspiracy, then you may not consider them as evidence against
22 that defendant.

23 Count Five of the indictment -- I'm now discussing the
24 firearms counts, the last two. Count Five of the indictment
25 charges the defendants, Scott Anthony Williams and Taeyan

Raymond Williams with first using, carrying, or brandishing a firearm during and in relation to a crime of violence or drug trafficking crime; and second, possessing or brandishing a firearm in furtherance of a crime of violence or a drug trafficking crime. The indictment reads as follows: On or about April 6, 2018 in the District of Maryland, the defendants, Scott Anthony Williams and Taeyan Raymond Williams, did knowingly use, carry, and brandish a firearm, that is a Sig Sauer model P-228 9 millimeter handgun bearing serial number B188194 during and in relation to a crime of violence and a drug trafficking crime, namely conspiracy to distribute and possess with intent to distribute controlled substances as charged in Count One; interference with interstate commerce by robbery as charged in Count Three; and kidnapping with death resulting as charged in Count Four. And did knowingly possess and brandish said firearm in furtherance of a crime of violence and a drug trafficking crime, namely conspiracy to distribute and possess with intent to distribute controlled substances as charged in Count One; interference with interstate commerce by robbery as charged in Count Three; and kidnapping with death resulting as charged in Count Four.

In Count Five, the defendants are charged with firearms offenses that are based on other crimes referenced in other counts of the indictment, specifically Count One, Count Three, and Count Four. As a result you should consider Count Five as

1 to either defendant only if you find that defendant guilty of
2 one of the following counts: Count One for conspiracy to
3 distribute and possess with intent to distribute controlled
4 substances; Count Three for interference with interstate
5 commerce by robbery, but not for interference with interstate
6 commerce by extortion; or Count Four which is kidnapping with
7 death resulting.

8 Count Five is to be considered only if you first find the
9 defendants guilty of Counts One, Three, or Four as charged. It
10 is sufficient to consider Count Five if you find the defendant
11 guilty as to any one of these counts. You need not find the
12 defendant guilty of all of these counts to consider Count
13 Five. If upon consideration of all of the evidence you find
14 that the Government has failed to prove Counts One, Three, and
15 Four beyond a reasonable doubt, then you must find the
16 defendant not guilty -- then you must find the defendant not
17 guilty on Count Five.

18 In reaching your verdict on Count Five you may consider
19 the evidence of Counts One, Three, and Four only for the
20 purpose of determining whether the elements of Count Five have
21 been satisfied. In considering Count Five, you may not
22 consider any evidence that relates to any count other than
23 Counts One, Three, or Four.

24 In order to prove that a defendant used, carried, and
25 brandished a firearm during and in relation to, or possessed

1 and brandished a firearm in furtherance of a crime of violence
2 or a drug trafficking crime, the Government must establish
3 each of the following elements beyond a reasonable doubt:
4 First, that the defendant committed a crime of violence or
5 drug trafficking crime for which he might be prosecuted in a
6 court of the United States, specifically Count One for
7 conspiracy to distribute and possess with intent to distribute
8 controlled substances; Count Three for interference with
9 interstate commerce by robbery; or Count Four, kidnapping with
10 death resulting. Second, that the defendant knowingly used or
11 carried a firearm during and in relation to the commission of
12 that crime or possessed a firearm in furtherance of that
13 crime. And third, that the defendant brandished the firearm.

14 The first element that the Government must prove beyond a
15 reasonable doubt is that the defendant committed a crime of
16 violence or drug trafficking crime for which they might be
17 prosecuted in a court of the United States. The defendants are
18 charged in the indictment with Count One, conspiracy to
19 distribute and possess with intent to distribute a controlled
20 substance; Count Two, interference with interstate commerce by
21 robbery; and Count Four, kidnapping with death resulting. I
22 instruct you that interference with interstate commerce by
23 robbery in Count Three, and kidnapping with death resulting,
24 Count Four, are crimes of violence and that conspiracy to
25 distribute or possess with intent to distribute controlled

1 substances as charged in Count One is a drug trafficking
2 crime. However, it is for you to determine whether the
3 Government has proven beyond a reasonable doubt that the
4 defendant committed at least one of the crimes charged in
5 Counts One, Three, or Four.

6 The second element that the Government must prove beyond
7 a reasonable doubt is that the defendant knowingly possessed,
8 used, or carried a firearm in furtherance of or during and in
9 relation to one of the crimes charged in Count One, Count
10 Three, or Count Four.

11 A firearm is any weapon that will or is designed to or
12 may readily be converted to expel a projectile by the action
13 of an explosive. In order to prove that a defendant used a
14 firearm during and in relation to a crime, the Government must
15 prove beyond a reasonable doubt an active employment of the
16 firearm by the defendant during and in relation to the
17 commission of the crime of violence or drug trafficking crime.
18 This element does not require that the defendant must have
19 actually fired or attempted to fire the weapon, although these
20 actions would constitute use of the weapon. Brandishing,
21 displaying, or even referring to the weapon so that others
22 present knew that the defendant had the firearm available, if
23 needed, all constitute use of the firearm. However, the mere
24 possession of a firearm at or near the site of the crime
25 without active employment is not sufficient to constitute a

1 use of the firearm.

2 In order to prove that the defendant carried a firearm
3 during and in relation to the crime the Government must prove
4 beyond a reasonable doubt that the defendant had the weapon
5 within his control in such a way that it furthered the
6 commission of the crime of violence or drug trafficking crime,
7 or was an integral part of the commission of the crime. The
8 defendant did not have -- not necessarily have to hold the
9 firearm physically, that is, have actual possession of it on
10 his person. If you find that the defendant had dominion and
11 control over the place where the firearm was located and had
12 the power and intention to exercise control over the firearm
13 in such a way that it furthered the commission of the crime of
14 violence or drug trafficking crime, you may find that the
15 Government has proven that the defendant carried the weapon.

16 To prove that the defendant possessed the firearm in
17 furtherance of the crime the Government must prove that the
18 defendant had possession of the firearm and that such
19 possession was in furtherance of that crime. Possession means
20 that the defendant either had physical possession of the
21 firearm on his person or that he had dominion and control over
22 the place where the firearm was located and had the power and
23 intention to exercise control over the firearm.

24 To possess a firearm in furtherance of the crime means
25 that the firearm helped forward, advance, or promote the

1 commission of the crime. The mere possession of the firearm at
2 the scene of the crime is not sufficient under this
3 definition. The firearm must have played some part in
4 furthering the crime in order for this element to be
5 satisfied.

6 To satisfy this element you must also find that the
7 defendant possessed, used, or carried the firearm knowingly.
8 This means that the defendant possessed, used, or carried the
9 firearm purposely and voluntarily and not by accident or
10 mistake. It also means that the defendant knew that the weapon
11 was a firearm as we commonly use the word. However, the
12 Government is not required to prove that the defendant knew
13 that he was breaking the law.

14 The third element that the Government must prove beyond a
15 reasonable doubt is that the defendant brandished the firearm.
16 To brandish a firearm means to display all or part of the
17 firearm or otherwise make the presence of the firearm known to
18 another person in order to intimidate that person, regardless
19 of whether the firearm is directly visible to that person.

20 Now if after consideration of all of the evidence you
21 find that as to a particular defendant the Government has not
22 proven each of the elements of possessing, using, carrying,
23 and brandishing a firearm in furtherance of or during and in
24 relation to a crime of violence or a drug trafficking crime,
25 then you must find that defendant not guilty on that charge.

1 In that instance you must then consider whether that defendant
2 is guilty of the lesser included offense of possessing, using,
3 and carrying a firearm in furtherance of or during and in
4 relation to a crime of violence or a drug trafficking crime.
5 Possessing, using, and carrying a firearm in furtherance of or
6 during and in relation to a crime of violence and drug
7 trafficking crime has the same first two elements as
8 possessing, using, carrying, and brandishing a firearm in
9 furtherance of or during and in relation to a crime of
10 violence or drug trafficking crime. But it does not include
11 the third element of brandishing the firearm. Thus to prove
12 the lesser included offense of possessing, using, and carrying
13 a firearm in furtherance of or during and in relation to a
14 crime of violence or drug trafficking crime, the Government
15 must establish each of the following elements beyond a
16 reasonable doubt: First, that the defendant committed a crime
17 of violence or drug trafficking crime for which he might be
18 prosecuted in a court of the United States; specifically Count
19 One, conspiracy to distribute and possess with intent to
20 distribute controlled substances; Count Three, interferes with
21 interstate commerce by robbery; or Count Four, kidnapping with
22 death resulting. And second, that the defendant knowingly used
23 or carried a firearm during and in relation to the commission
24 of that crime or possessed a firearm in furtherance of that
25 crime. If you find that the Government has proven both of

1 these elements beyond a reasonable doubt then you must find
2 the defendant guilty of the lesser included offense to Count
3 Five.

4 Count Eight of the indictment charges the defendant,
5 Scott Anthony Williams, with possession of firearms in
6 furtherance of a drug trafficking crime. The indictment reads
7 as follows: On or about June 6, 2018 in the District of
8 Maryland the defendant, Scott Anthony Williams, did knowingly
9 possess, that is -- possess firearms, that is a Sig Sauer
10 model P-228 9 millimeter handgun bearing serial number
11 B188194; a Century Arms model VV2008 Sporter 7.62 caliber
12 rifle bearing serial number V08PM013368; a Bryco Arms model
13 J25 .38 caliber handgun bearing serial number 371085; and a
14 Beretta model 21A .25 caliber handgun bearing serial number
15 DAA047571, all in furtherance of a drug trafficking crime for
16 which he may be prosecuted in a court of the United States.
17 That is, possession with the intent to distribute controlled
18 substances as charged in Count Six and Count Seven.

19 The crime charged in Count Eight is the same as the crime
20 charged in Count Five except that this count charges only
21 possession of a firearm in furtherance of a drug trafficking
22 crime. It does not charge use, carrying, or brandishing of a
23 firearm during and in relation to a drug trafficking crime.

24 In addition, the drug trafficking crimes at issue are the
25 crimes charged in Count Six and Seven of the indictment rather

1 than the crime charged in Count One of the indictment.

2 Now in Count Eight the defendant, Scott Anthony Williams,
3 is charged with firearms offenses that are based on other
4 crimes of the indictment, specifically Count Six and Count
5 Seven. As a result, you may consider Count Eight only if you
6 find the defendant guilty of one of the following counts:
7 Count Six, possession with intent to distribute controlled
8 substances, meaning cocaine or marijuana, or Count Seven,
9 possession with the intent to distribute controlled
10 substances, that is methamphetamines. Count Eight is to be
11 considered only if you first find the defendant guilty of
12 Count Six or Seven as charged. It is sufficient to consider
13 Count Eight if you find the defendant guilty as to either one
14 of these counts. You need not find the defendant guilty of
15 both of these counts to consider Count Eight.

16 If upon consideration of all of the evidence you find
17 that the Government has failed to prove Counts Six and Seven
18 beyond a reasonable doubt, then you must find the defendant
19 not guilty on Count Eight.

20 In reaching your verdict on Count Eight you may consider
21 the evidence of Counts Six and Seven only for the purpose of
22 determining whether the elements of Count Eight have been
23 satisfied. In considering Count Eight you may not consider any
24 evidence that relates to any other count other than Counts Six
25 or Seven.

1 In order to prove that the defendant, Scott Anthony
2 Williams knowingly possessed a firearm in furtherance of a
3 drug trafficking crime as charged in Count Eight, the
4 Government must prove each of the following elements beyond a
5 reasonable doubt: First, that the defendant committed a drug
6 trafficking crime for which he might be prosecuted in a court
7 of the United States, specifically the crime charged in Count
8 Six or Seven of the indictment for possession with intent to
9 distribute controlled substances; and second, that the
10 defendant knowingly possessed a firearm in furtherance of the
11 commission of the crimes charged in Count Six or Seven.

12 The first element that the Government must prove beyond a
13 reasonable doubt is that the defendant, Scott Anthony
14 Williams, committed a drug trafficking crime for which he
15 might be prosecuted in a court of the United States. The
16 defendant is charged in the indictment with possession with
17 intent to distribute a controlled substance, that is cocaine
18 or marijuana in Count Six, and possession with intent to
19 distribute a controlled substance, methamphetamines, in Count
20 Seven. I instruct you that possession with the intent to
21 distribute a controlled substance as charged in Counts Six and
22 Seven is a drug trafficking crime. However, it is for you to
23 determine whether the Government has proven beyond a
24 reasonable doubt that the defendant committed at least one of
25 the crimes charged in Count Six or Seven.

1 On the second element, knowing possession of a firearm in
2 furtherance of the predicate crime, you should apply
3 instruction number 83 relating to Count Five.

4 Now Counts Three, Four, Five, Six and Seven of the
5 indictment charge the defendants with crimes as a principal. A
6 principal is the person who actually committed the offense
7 charged. In addition, as to these counts, the Government has
8 also alleged that the defendants committed the charged
9 offenses under the aiding and abetting statute. This aiding
10 and abetting instruction applies to Counts Three, Four, Five,
11 Six and Seven. The aiding and abetting statute provides that
12 whoever commits an offense against the United States or aids
13 or abets or counsels, commands, or induces or procures its
14 commission is punishable as a principal.

15 Under the aiding and abetting statute it is not necessary
16 for the Government to show that a defendant physically
17 committed the crime with which he is charged as a principal in
18 order for the Government to sustain its burden of proof. A
19 person who aids and abets another to commit an offense is just
20 as guilty of that offense as if he committed it himself.
21 Accordingly, you may find a defendant guilty of the offense
22 charged if you find beyond a reasonable doubt that the
23 Government has proven that another person actually committed
24 the offense with which the defendant is charged and that the
25 defendant aided or abetted that person in the commission of

1 the offense.

2 The first requirement is that you find that another
3 person has committed the crime charged. No one can be
4 convicted of aiding or abetting the criminal acts of another
5 if no crime was committed by the other person in the first
6 place. But, if you do find that a crime was committed, then
7 you must consider whether the defendant aided or abetted the
8 commission of the crime.

9 In order to aid or abet another to commit a crime it is
10 necessary that the defendant knowingly associate himself in
11 some way with the crime and that he participate in the crime
12 by doing some act to help make the crime succeed. To establish
13 that the defendant knowingly associated himself with the
14 crime, the Government must prove that the defendant engaged in
15 some affirmative conduct or overt act with knowledge of the
16 intended result of the crime and the intent to bring about
17 that result. The mere presence of a defendant where a crime is
18 being committed, even coupled with knowledge by the defendant
19 that a crime is being committed, or merely associating with
20 others who were committing a crime is not sufficient to
21 establish aiding and abetting. One who has no knowledge that a
22 crime is being committed or is about to be committed but
23 inadvertently does something that aids in the commission of
24 that crime is not an aider and abetter. And aider and abetter
25 must know that the crime is being committed and act in a way

1 that is intended to bring about the success of the criminal
2 venture.

3 To determine whether the defendant aided or abetted the
4 commission of a crime ask yourself these questions: Did he
5 participate in the crime charged as something he wished to
6 bring about? Did he associate himself with the criminal
7 venture? Did he seek by his actions to make the criminal
8 venture succeed? If he did, then he is an aider and abetter
9 and therefore, guilty of the offense. If on the other hand
10 your answer to any one of these questions is no, then he is
11 not an aider and abetter and you must find him not guilty as
12 an aider and abetter.

13 With respect to Count Five and Count Eight, the firearms
14 counts, in order to find the defendant aided and abetted one
15 of those offenses, you must also find beyond a reasonable
16 doubt that the defendant acted with advanced knowledge that
17 another participant would commit the charged offense with a
18 firearm.

19 Now in light of the conspiracy charges in Counts One and
20 Two, there is another method by which you may evaluate the
21 possible guilt of the defendants on Count Three, interference
22 with interstate commerce by robbery or extortion; and Count
23 Six, possession with intent to distribute controlled
24 substances, even if you do not find that the defendant has
25 satisfied its burden of proof with respect to each element of

1 those crimes as to the defendants.

2 If you find that the Government has proven beyond a
3 reasonable doubt that a defendant was a member of the
4 conspiracy charged in Count One, conspiracy to distribute and
5 possess with intent to distribute controlled substances, and
6 thus is guilty on that conspiracy count, then you may also,
7 but you are not required to find him guilty of the crime
8 charged against him in Count Six, provided that you find
9 beyond a reasonable doubt each of the following elements:
10 First, that the crime charged in Count Six was committed;
11 second, that the person or persons you find actually committed
12 the crime charged in Count Six were members of the conspiracy
13 in Count One you found to have existed; third, that the crime
14 charged in Count Six was committed pursuant to the common plan
15 and understanding you found to exist among the
16 co-conspirators; fourth, that the defendant was a member of
17 the conspiracy in Count One at the time the crime charged in
18 Count Six was committed; fifth, that the defendant could have
19 reasonably foreseen that the crime charged in Count Six might
20 be committed by his co-conspirators -- I'm sorry, fourth, that
21 the defendant was a member of the conspiracy in Count One at
22 the time the crime was charged in Count Six was committed; and
23 fifth, that the defendant could have reasonably foreseen that
24 the crime charged in Count Six might be committed by his
25 co-conspirators.

1 If you find all five of these elements to exist beyond a
2 reasonable doubt, then you may find the defendant guilty of
3 the crime charged against him in Count Six, even if he did not
4 personally participate in the acts constituting the crime or
5 did not have actual knowledge of it.

6 In addition, if you find that the Government has proven
7 beyond a reasonable doubt that a defendant was a member of the
8 conspiracy charged in Count Two, conspiracy to interfere with
9 interstate commerce by robbery or extortion, and thus is
10 guilty on that conspiracy count, then you may also, but are
11 not required to find him guilty of the crime charged against
12 him in Count Three, provided that you find each of the
13 following elements beyond a reasonable doubt: First, that the
14 crime charged in Count Three was committed; second, that the
15 person or persons you find actually committed the crime
16 charged in Count Three were members of the conspiracy you
17 found to have existed; third, that the crime charged in Count
18 Three was committed pursuant to the common plan and
19 understanding you found to exist among the co-conspirators;
20 fourth, that the defendant was a member of that conspiracy at
21 the time the crime charged in Count Three was committed; and
22 fifth, that the defendant could have reasonably foreseen that
23 the crime charged in Count Three might be committed by his
24 co-conspirators. If you find all five of these elements to
25 exist beyond a reasonable doubt, then you may find the

1 defendant guilty of the crime charged against him in Count
2 Three, even though he did not personally participate in the
3 acts constituting the crime, or did not have actual knowledge
4 of it. The reason for this rule is that a co-conspirator who
5 commits a crime pursuant to a conspiracy is deemed to be the
6 agent of the other conspirators. Therefore, all of the
7 co-conspirators must bear criminal responsibility for the
8 commission of the crimes committed by its members. If,
9 however, you are not satisfied as to the existence of any of
10 these five elements, then you may not find the defendant
11 guilty of the substantive crime at issue on this basis.

12 Now as I stated earlier, Count Three of the indictment
13 charges the defendant -- that the defendants interfered with
14 interstate commerce in either one of two ways: The first is
15 the defendant interfered with interstate commerce by robbery;
16 the second is that the defendant interfered with interstate
17 commerce by extortion. In order for you to find a defendant
18 guilty on Count Three, the Government need not prove that the
19 defendant committed the crime of interference with interstate
20 commerce in both of these ways. It is sufficient if you find
21 beyond a reasonable doubt that the defendant committed
22 interference with interstate commerce in one of these two ways
23 to convict the defendant on Count Three. However, in order to
24 convict a defendant on this count all of you must agree on the
25 manner in which that defendant interfered with interstate

1 commerce. Either all of you must agree that the defendant
2 interfered with interstate commerce by robbery, or all of you
3 must agree that the defendant interfered with interstate
4 commerce by extortion. Similarly, Count Two of the indictment
5 charges that the defendants committed the crime of conspiracy
6 to interfere with interstate commerce in either one of two
7 ways, by robbery or extortion. The same instruction that
8 applies to Count Three applies here. The Government need not
9 prove both of these crimes were objectives of the conspiracy
10 for you to find a defendant guilty of the conspiracy count. It
11 is sufficient if you find beyond a reasonable doubt that a
12 defendant joined the conspiracy with one of these objectives
13 or the other in order to convict that defendant on Count One.

14 However, in order to convict a defendant on this count,
15 all of you must agree on the specific objective that the
16 defendant agreed to try to accomplish. Either all of you must
17 agree that the defendant conspired to interfere with
18 interstate commerce by robbery, or all of you must agree that
19 the defendant conspired to interfere with interstate commerce
20 by extortion.

21 Count Five charges that the defendant possessed, used,
22 carried, and brandished a firearm in furtherance of or during
23 and in relation to a crime of violence and drug trafficking
24 crime. The Government charges that the defendants possessed,
25 used, carried, and brandished a firearm in three crimes of

1 violence or drug trafficking crimes. Count One, conspiracy to
2 distribute and possess with intent to distribute controlled
3 substances; Count Three, interference with interstate commerce
4 by robbery; and Count Four, kidnapping resulting in death.

5 The Government need not prove that a defendant committed
6 each of these crimes for you to find him guilty of Count Five.
7 It is sufficient to convict on Count Five if you find beyond a
8 reasonable doubt that a defendant committed one of these
9 crimes and the Government has proven all of the elements of
10 Count Five. However, in order to convict a defendant on this
11 count, all of you must agree on the specific predicate crime
12 that the defendant committed. Either all of you must agree
13 that the defendant committed the crime of conspiracy to
14 distribute and possess with intent to distribute controlled
15 substances, all of you must agree that the defendant committed
16 the crime of interference with interstate commerce by robbery,
17 or all of you must agree that the defendant committed the
18 crime of kidnapping with death resulting.

19 Similarly, Count Eight charges the defendant, Scott
20 Anthony Williams, with possession of firearms in furtherance
21 of a drug trafficking crime. The Government charged that the
22 defendant possessed firearms in furtherance of both of the
23 counts of possession with intent to distribute a controlled
24 substance as charged in Counts Six and Seven. The Government
25 need not prove that a defendant committed both of these crimes

1 for you to find the defendant guilty of Count Eight. It is
2 sufficient to convict on Count Eight if you find beyond a
3 reasonable doubt that the defendant committed one of these
4 crimes, and that the Government has proven all the elements of
5 Count Eight. However, in order to convict a defendant on this
6 count, all of you must agree on the specific predicate crime
7 that the defendant committed. Either all of you must agree
8 that the defendant committed possession with intent to
9 distribute controlled substances as charged in Count Six, or
10 all of you must agree that he committed possession with intent
11 to distribute a controlled substance as charged in Count
12 Seven.

13 The question of possible punishment of the defendants is
14 of no concern to the jury and should not in any sense enter
15 into or influence your deliberations. The duty of imposing a
16 sentence rests exclusively upon the judge. Your function is
17 to weigh the evidence in the case and to determine whether or
18 not each defendant is guilty beyond a reasonable doubt, solely
19 upon the basis of such evidence.

20 Under your oath as jurors you cannot allow consideration
21 of the punishment that may be imposed upon a defendant if he
22 is convicted to influence your verdict in any way or in any
23 sense to enter into your deliberations.

24 So that completes the jury instructions in this case with
25 one exception. I have one last instruction which I will save

1 for tomorrow. Not because of the length of the jury
2 instructions, that has nothing to do with it. I typically save
3 the last instructions which provides guidance on the specific
4 mechanics of how you go about deliberating and returning a
5 verdict until after you've heard the closing arguments so you
6 hear that right before you begin those tasks. So that is to
7 come hopefully -- well, that will come tomorrow.

8 So with that then you have heard the jury instructions.
9 You will get a written copy of those jury instructions to take
10 with you in case you didn't remember all of it. And as I
11 promised you, we will suspend for the day. Right now it is too
12 late for us to complete all the closing arguments before 5:00
13 and it's always better to have you hear them all as close
14 together as possible. You'll certainly want to remember the
15 jury instructions and of course refer to the written ones
16 later as you listen to the closing arguments, but for now we
17 will let you go with the expectation that beginning tomorrow
18 morning at 9:00 you'll start hearing the closing arguments. My
19 expectation is you'll hear them all and have the case to
20 deliberate upon before lunchtime. So just please try to come
21 on time tomorrow.

22 Again, you've heard the evidence in the case. You've
23 heard the jury instructions. You haven't heard the closing
24 arguments and we haven't started deliberations. So even with
25 all the information you have, you must remain following the

1 instructions not to discuss the case among yourselves or with
2 anyone else. Don't do any outside research. And keep an open
3 mind throughout the time period between now and tomorrow
4 morning when we meet again.

5 Now we are letting you leave here about 3:00. Again, it's
6 up to you whether you discuss the early departure with anyone
7 else who may be wondering where you are, that's totally up to
8 you, but we will give you the rest of the afternoon off. We
9 will see you tomorrow morning ready to go at 9:00. Thank you
10 very much.

11 **(Jury was excused at 3:05 p.m.)**

12 **THE COURT:** Okay, thank you. Everyone please be
13 seated. So as I mentioned to you, I mean, I always find little
14 nits here and there. I actually was making notes along the
15 way. So they will get a written version that comports with
16 what I said, not what was written on the page exactly. None of
17 it is substantive. And we'll give you a final copy of that
18 tomorrow morning.

19 The verdict form, as I said, does need to be adjusted to
20 a certain degree primarily on the lesser included offense
21 instructions. I don't think it will be controversial, but I
22 hope to send you a Track Changes on that later today. So take
23 a look at it and we should plan again to meet at 8:45 just to
24 discuss those, make sure that the verdict form is in order and
25 there's nothing else to deal with in that regard.

1 I did want to ask whether either side wants to be heard
2 further on the Rule 29 motions that the defense has filed. Is
3 there more you want to offer from the defense side? And once
4 you've had your chance, I'll give the Government a chance if
5 they want to weigh in.

6 **MR. NIETO:** Your Honor, on behalf of Taeyan
7 Williams, no. We will submit on the motion.

8 Additionally, for the purposes of the record being clear,
9 we are also renewing said motion at the conclusion of the
10 defense case.

11 **THE COURT:** Of course.

12 Mr. Hawks, anything you want to add on this front?

13 **MR. HAWKS:** No, Your Honor. We concur with that.

14 **THE COURT:** Okay. Anyone from the Government want
15 to address the motions?

16 **MS. GROSSI:** Your Honor, the Government submits that
17 there is sufficient evidence on all nine counts and the
18 Government is prepared to argue it if you want to hear more.

19 **THE COURT:** Well, I would tell you to respond to
20 whatever was said, but I don't know if they created a specific
21 target. I mean, I don't know if there's anything specific to
22 add at this point. I mean, I do find -- let me just kind of --
23 quickly going through the indictment at this stage based on
24 what I have now, I mean, I do find sufficient evidence to
25 proceed to the jury on these counts.

1 On Count One, the conspiracy, I think there was ample
2 evidence of a drug conspiracy to distribute marijuana and also
3 the presence of the cocaine in the residence. Now certainly
4 there's evidence from the electronic records of Taeyan
5 Williams' involvement in this. The fact that it was in Scott
6 Williams' residence certainly ties him to it as well, some of
7 the electronic connections that we saw in the text messages
8 and other electronic communications. And also the testimony of
9 several of the witnesses, including Mr. Cox -- well, the
10 combination of the co-conspirators: Cox, Diaz, and Mr.
11 Drummond, some or all of them addressed both defendants being
12 involved in the conspiracy. And certainly the connections
13 back to the involvement of Noah Smothers with him, some of
14 that, again, is mostly from the electronic record.

15 In terms of the interference with interstate commerce by
16 robbery or extortion, although I know the Government didn't
17 focus upon this, certainly Mr. Musa's testimony, if accepted
18 which at this stage under the highly deferential standard to
19 the Government would help to support that count, but in
20 addition to that there's significant circumstantial evidence
21 regarding the connection between the defendants and Mr.
22 Smothers in terms of the fact that items were taken,
23 apparently taken from the storage unit that ended up in Mr.
24 Williams' house, in particular the invoice sheet or other
25 record of what was delivered to Mr. Smothers at the storage

1 unit was found in Scott Williams' home under his mattress, and
2 also the drugs found there appear to be quite consistent with
3 the same drugs that were delivered to the storage unit. And
4 then the presence of the firearm in that residence with the
5 DNA of the defendant on it helps to support the evidence with
6 respect to robbery or extortion in terms of violence or threat
7 of violence or actual use of violence. And that relatedly --
8 that addresses both Count Two, conspiracy and also Count
9 Three, the substantive count.

10 The kidnapping, again, the same evidence in that
11 starting -- including Mr. Musa's direct evidence, but also the
12 same circumstantial evidence also bringing in the presence of
13 Scott Williams' rental car with the drop-off of the vehicle
14 with the defendant's DNA in the back with the blood.

15 And then the firearms offenses, Count Five, again that
16 same testimony about the use of the firearm by Mr. Musa, as
17 well as the circumstantial evidence with the DNA is supportive
18 of that count.

19 Count Six and Seven we have the drugs found in the
20 residence where Scott Williams lived and where Taeyan Williams
21 lived at times. We have some of the phone calls in which there
22 were references to materials that were either in the crawl
23 space or otherwise which reflected knowledge of its presence
24 in the residence. And obviously the firearms found there,
25 although it's circumstantial, their presence in general

1 proximity to the drugs at least would support an inference
2 that the firearms were there to further the drug activity
3 which would be what is necessary to establish Count Eight.

4 And then finally on Count Nine with the conspiracy to
5 destroy and conceal evidence, we have the evidence that the
6 methamphetamine pills were in the toilet about to be flushed
7 and that the only person there was Scott Williams given that
8 Ms. Chaplin was denied having anything to do with that. The
9 conversations in which there was direction from Scott Williams
10 to Mr. George or others through Ms. Chaplin to destroy
11 electronic data which at least there would be an inference
12 that the data both in the cloud and on the phones were records
13 that could be used as part of a prosecution are sufficient to
14 show -- to have the jury decide Count Nine as well.

15 Okay, anything else that we need to discuss before
16 tomorrow?

17 **MS. GROSSI:** Not from the Government, Your Honor.

18 **MR. HAWKS:** No, Your Honor.

19 **MR. GUILLAUME:** No, Your Honor.

20 **MR. NIETO:** Thank you.

21 **THE COURT:** So we will, again, 8:45 we'll go over
22 the verdict form. Take a look at it when you get it. I'll
23 give you a clean copy of the instructions. I would invite you
24 again just to -- I don't know if you have it handy now or --
25 again, the numbering shifted slightly so update your slides so

1 the numbers of the jury instructions match up. I'm expecting
2 everyone will have adjusted the slides on the points that we
3 raised: Mr. Crawley asking for something out of the
4 Government's slide; my request that we remove the emphasis on
5 words in the jury instructions; the Government's request which
6 I approved to remove the photographs that are not actually
7 pieces of evidence. I think that covers all of that, but we
8 look forward to everyone's arguments tomorrow.

9 **MR. CRAWLEY:** Quick question, Your Honor.

10 **THE COURT:** Yes.

11 **MR. CRAWLEY:** Your Honor, logistically and just for
12 me as far as scheduling, I spoke with Mr. Williams and I'm
13 going to basically ask the Court politely once the jury gets
14 the case for deliberations, I know generally the Court wishes
15 to have the attorney within five to ten minutes of the
16 courthouse. If it's okay with the Court, Mr. Hawks and I had
17 discussed this with Mr. Williams, I have another matter that I
18 could deal with tomorrow. Obviously I won't if the Court
19 requires me to be here, but if it's just for the purpose of
20 answering a question or taking a verdict, would the Court be
21 inclined to excuse me tomorrow for that purpose once the jury
22 gets the -- I plan to be here throughout the entire closing on
23 all parts, from both sides, but I just wanted to know the
24 Court's position with respect to that.

25 **THE COURT:** You're talking about in the afternoon?

1 I'm projecting as I told them, we'll finish before lunch, but
2 not -- probably right like around 12 or thereabouts. So what
3 time were you planning to be absent?

4 **MR. CRAWLEY:** Your Honor, I was thinking more around
5 2:00 I would be asking to leave, but I don't have --

6 **THE COURT:** For another proceeding in this court or
7 different court?

8 **MR. CRAWLEY:** No, other matters generally. Not even
9 in a courthouse, just some other things, personal matters.

10 **THE COURT:** Well, you know, obviously if Mr.
11 Williams had no other counsel you would absolutely have to be
12 here. Mr. Hawks obviously is here.

13 So Mr. Hawks, you're going to be available the whole
14 time?

15 **MR. HAWKS:** Yes, Your Honor.

16 **MR. CRAWLEY:** It would just be for tomorrow, Your
17 Honor. I don't expect that to be for Wednesday or any other
18 day.

19 **THE COURT:** Right. I mean, first of all does either
20 side have any view on this, any of the other two sides have a
21 view on this?

22 **MR. GUILLAUME:** Your Honor, I'll defer to the Court.
23 It's fine with Mr. Taeyan Williams.

24 **MS. GROSSI:** We defer to the Court too, Your Honor.

25 **THE COURT:** Okay. Mr. Hawks, if you're prepared to

1 handle this and if Mr. Williams is prepared to agree to this,
2 I'm okay with it. Obviously it's up to you all how you want to
3 handle it. So long as you are available and can speak
4 entirely for Mr. Williams, I'm okay with that. Is that -- from
5 your perspective are you prepared to do that and are you also
6 able to represent Mr. Williams is consenting to this?

7 **MR. HAWKS:** Yes, Your Honor. I'm prepared for that
8 and we had the opportunity to discuss this with Mr. Williams
9 and he had no objection.

10 **THE COURT:** Okay. I mean, as a practical matter
11 given the volume of evidence and so forth I would be -- just
12 in terms of historical paths I think we might get a question,
13 I think it's enough information that I would think that it
14 would need at least the afternoon before they come back with
15 any kind of result. So if you're lucky you won't miss
16 anything, Mr. Crawley. But again, so long as Mr. Hawks is
17 here and we can keep moving forward and that's agreeable to
18 Mr. Williams, then I can move forward this way. Okay.

19 **MR. CRAWLEY:** Thank you, Your Honor.

20 **THE COURT:** Thank you. Okay, so we will see you
21 ready to go first thing in the morning and the Government, you
22 can start setting up even before I get here just to be as
23 ready as possible. Thank you very much.

24 **(Proceeding concluded at 3:16 p.m.)**
25

1 CERTIFICATE OF OFFICIAL REPORTER
2
3
4

5 I, Nadine M. Bachmann, Certified Realtime Reporter
6 and Registered Merit Reporter, in and for the United States
7 District Court for the District of Maryland, do hereby
8 certify, pursuant to 28 U.S.C. § 753, that the foregoing is a
9 true and correct transcript of the stenographically-reported
10 proceedings held in the above-entitled matter and that the
11 transcript page format is in conformance with the regulations
12 of the Judicial Conference of the United States.

13
14 Dated this 17th day of December, 2023.

15
16 -S-

17
18 _____
19 NADINE M. BACHMANN, CRR, RMR
20 FEDERAL OFFICIAL COURT REPORTER
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NUMBER:
TDC-18-0631
SCOTT ANTHONY WILLIAMS and) VOLUME X
and TAEYAN RAYMOND WILLIAMS,)
Defendants.)
_____)

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
BEFORE THE HONORABLE THEODORE D. CHUANG
UNITED STATES DISTRICT JUDGE
Tuesday, May 9, 2023
Greenbelt, Maryland

A P P E A R A N C E S

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12 ***Proceedings Recorded by Mechanical Stenography***

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P R O C E E D I N G S

(8:55 a.m.)

THE COURTROOM DEPUTY: The matter now pending before this Court is Criminal Action Number TDC-18-0631, United States of America v. Scott Anthony Williams and Taeyan Raymond Williams. We are here today for the purpose of a jury trial. Counsel, please identify yourselves for the record.

MS. GROSSI: Good morning, Your Honor. Leah Grossi, Michael Hanlon, and William Moomau on behalf of the Government. Here with us at counsel's table is Kyle Simms with the Maryland State Police.

THE COURT: Good morning.

MR. HAWKS: Good morning, Your Honor. Kwasi Hawks and Dwight Crawley on behalf of Mr. Scott Williams, seated between us.

MR. GUILLAUME: Good morning, Your Honor. For the record, Alfred Guillaume and Christopher Nieto on behalf of Mr. Taeyan Williams, seated to my left.

MR. NIETO: Good morning.

THE COURT: Good morning to counsel and all the parties and members of the audience.

So before we get to closing arguments, I just wanted to check in with you on the other documents. I did give you the final version of the jury instructions we'll give to the jury. As you can see I take out the citations that we've been

1 working under and there were some minor technical corrections.
2 I think the Government caught one and there were a few others,
3 but most of them I caught along the way so they basically
4 match what I said for the most part. And then -- well, they
5 match what I said other than I think some of those numbers
6 that we had to change.

7 The verdict form, we hadn't really adjusted it since we
8 moved the jury instructions to the lesser included offense
9 concept and so that's why I wanted to just make sure having
10 adjusted that that everyone was comfortable with the form.

11 Has everyone had a chance to look at that and does anyone
12 have any proposed changes?

13 **MR. HANLON:** Your Honor, I had one -- a couple
14 suggestions about the 924(c). Structurally I think the form is
15 good. In going through the form last evening I noticed
16 something that probably we should have noticed earlier and
17 it's not a massive change. In terms of how we describe the
18 924(c) count, in Count Five I wonder if it would make sense to
19 separate out the possession in furtherance prong and the use,
20 carry, during in relation prong as they are separate and the
21 jury is instructed that they're sort of separate in the jury
22 instructions. Not into separate verdicts, but just in the
23 title I was going to suggest that we describe Count Five as
24 "possessing and brandishing a firearm in furtherance of or
25 using, carrying, and brandishing during and in relation to a

1 crime of violence and a drug trafficking crime." Something
2 along those lines.

3 **THE COURT:** Well, let me look again at the statute
4 because this is kind of messy, as you can tell. So
5 924(c)(1)(A), during and in relation to any crime of violence
6 or drug trafficking crime, uses or carries a firearm or who in
7 furtherance of such crime possesses a firearm. So, I mean, I
8 think we usually see it in -- so I mean, I think the way it's
9 structured is possession is in furtherance, and the other
10 three are during and in relation to. I'm not sure it makes any
11 functional difference, but I think that's the way it's written
12 in the statute.

13 I think what we typically see just because of the types
14 of charges we get is that "during and in relation" tends to
15 match with the crime of violence and the "in furtherance of"
16 tends to match with the drug trafficking crime, but I'm not
17 sure that the statute requires it that way. It's more about
18 whether you're talking about possession or the other three
19 activities.

20 So really if we wanted to get very specific about it, it
21 should just be "possessing in furtherance of the" -- or
22 "using, carrying, and brandishing during and in relation to,"
23 the problem being that the Government has tried to argue --
24 well, I'm not sure. Throughout the case there's been
25 possessing and brandishing in furtherance, but the brandishing

1 I think is during and in relation the way the statute --
2 remind me during the course of this case why haven't there
3 been efforts to link possession and brandishing together?

4 **MR. HANLON:** Well, Your Honor, I think that the
5 evidence has always supported the proposition that the firearm
6 used in connection with the kidnapping and robbery was
7 possessed, as well as used and carried and that it was
8 brandishing. Now brandishing can be both with the "in
9 furtherance" prong and the "during and in relation to" prong.
10 I think the reason we've talked about the use of the gun is
11 because it was used in all of the ways that 924(c) allows it
12 to be used.

13 I think functionally the only thing -- to the extent that
14 this is a concern at all and if I'm being hypertechnical I'm
15 perfectly happy to leave this alone, is that the title of the
16 count in the verdict might separate the possession and
17 brandishing in furtherance, or using, carrying, and
18 brandishing during and in relation to a firearm. But it is a
19 somewhat technical matter, Your Honor. And the evidence shows
20 that there was a single course of conduct.

21 **THE COURT:** I mean, the way we instructed it and the
22 way the -- I see. Well, the way we did the jury instructions,
23 maybe they should match the jury instructions. The jury
24 instructions -- I did tinker with the headline because I just
25 thought it was complicated, but "possessing, using and

1 carrying and brandishing a firearm in furtherance of or during
2 and in relation to a crime of violence, drug trafficking
3 crime" is kind of how we have it in the jury instructions. So
4 what was your proposal again, Mr. Hanlon?

5 **MR. HANLON:** I'm sure it won't be particularly
6 articulate, Your Honor, I apologize. Let me -- give me a quick
7 moment. We would just change the title to Count Five,
8 "possessing and brandishing a firearm in furtherance of, or
9 using, carrying and brandishing a firearm during and in
10 relation to a crime of violence or a drug trafficking crime."

11 **THE COURT:** So I guess brandishing is not
12 technically listed there, but I just don't see how -- well, I
13 guess I have two ideas. One is we leave it the way it is
14 because I think it really doesn't make any real substantive
15 difference, however I am open to the idea, given the way that
16 the jury instruction headings read to say -- let me just go
17 back to this again -- "possessing, using, carrying and
18 brandishing a firearm" -- I'm sorry. Just the phraseology we
19 used in the jury instructions which is "possessing, using,
20 carrying and brandishing a firearm in furtherance of or during
21 and in relation to a crime of violence or drug trafficking
22 crime." I'm willing to do that because the way it is set up
23 now, the "in furtherance" relates only to the drug trafficking
24 crime which isn't totally accurate. Again, I don't think the
25 "in furtherance" and "during and in relation" is going to make

1 any difference.

2 I don't think there's a basis to lump possessing and
3 brandishing together separately, so we could go with the
4 header we have on 79 or we could just leave it the way it is.
5 Does anyone have a preference between those two?

6 **MR. HANLON:** I'm sorry, Your Honor. The Government
7 is content to leave it the way it is if the defense doesn't--

8 **THE COURT:** Any problem with that from the defense?

9 **MR. NIETO:** No, Your Honor.

10 **MR. CRAWLEY:** No, sir.

11 **THE COURT:** Okay, why don't we just do that, then.
12 It's probably a little easier.

13 **MR. HANLON:** That's fine, Your Honor. I'm sorry for
14 wasting time.

15 **THE COURT:** No, no. Everyone is trying to get it
16 right. Is the jury ready?

17 **THE COURTROOM DEPUTY:** Yes, sir.

18 **THE COURT:** So is the Government all set up?

19 **MS. GROSSI:** Yes.

20 **THE COURT:** Okay, so we'll call the jury in and
21 we'll go to the closing arguments. Thank you.

22 **(Jury entered the courtroom at 9:06 a.m.)**

23 **THE COURT:** Thank you, everyone. Please be seated.
24 Ladies and gentlemen, welcome back and as I had promised you,
25 we would move to the closing arguments next. As I mentioned to

1 you yesterday during the jury instructions, the closing
2 arguments are not evidence, but they may be considered by you
3 in helping you to interpret the actual evidence. The
4 Government has the burden of proof so they go first. The two
5 defendants will give closing arguments. I think the sequence
6 is we'll start with the Government, then we'll go to counsel
7 for Scott Williams, then we'll go to counsel for Taeyan
8 Williams. And then because the Government has the burden of
9 proof, they are afforded the opportunity to have a brief
10 rebuttal argument, meaning to respond to what the defense
11 counsel have said.

12 We will have you all -- this will all be done before
13 lunch, but we'll try to keep it moving. We will take a break
14 as we often do in the middle. But as we're changing counsel
15 even if we're not taking a break, you can stand up and stretch
16 because it's going to take them a couple minutes to change the
17 microphones and things like that.

18 So with that we're going to begin with the Government.
19 Ms. Grossi.

20 **MS. GROSSI:** This case is about two men, Scott
21 Williams and Taeyan Williams, a father/son team who decided to
22 cut Noah Smothers out of their drug dealing business. They
23 wanted his marijuana, his money, and his California supplier.
24 They wanted to take his place and they didn't want to owe him
25 anything. So they kidnapped, robbed, tortured, killed, and

1 buried Noah Smothers, leaving Noah Smothers in an unmarked
2 grave.

3 Over the last two weeks you've heard a lot of evidence in
4 this case. Let's discuss what that evidence has shown
5 throughout this trial. While we're discussing the evidence,
6 you'll see exhibit numbers on the screen on the slides. Feel
7 free to take notes on those exhibit numbers because you're not
8 going to get this slide deck back when you deliberate.

9 You learned that Noah Smothers and Jacob Rayburn were in
10 California together when they decided to get into the illegal
11 marijuana business. Jacob Rayburn stayed in California and
12 Noah Smothers moved back to the east coast to start their
13 business. Jacob Rayburn was in charge of finding the marijuana
14 and getting it shipped to the east coast. Noah Smothers was in
15 charge of finding clients and distributing that marijuana to
16 buyers. Noah Smothers and Jacob Rayburn communicated with each
17 other on encrypted platforms. Jacob Rayburn purchased
18 encrypted or jail broken iPhones from KryptAll for himself and
19 Noah Smothers, which came pre-installed with the Wickr
20 application, an end-to-end encrypted platform that deletes
21 messages after a certain period of time. You learned that Noah
22 Smothers had the KryptAll account 127999 which was on a
23 laminated business card in his house in Pennsylvania.

24 When Noah Smothers first moved back to the east coast, he
25 was living with his parents in Binghamton, New York. While he

1 was staying with his parents he would bring large cardboard
2 boxes of marijuana and marijuana products into their home.
3 Eventually his parents had enough and he found a place of his
4 own at 348 Lomar Road in Susquehanna, Pennsylvania.

5 Now when Noah Smothers and Jacob Rayburn were getting
6 their business off the ground, there were some other already
7 established marijuana traffickers on the east coast. In
8 Morgantown, West Virginia, Taeyan Williams was the local
9 cocaine and marijuana dealer for fraternities at West Virginia
10 University. Taeyan Williams distributed his cocaine and
11 marijuana through Connor Cox, a member of the Kappa Alpha
12 fraternity at West Virginia University.

13 Connor Cox began selling marijuana and cocaine for Taeyan
14 Williams in the fall of 2017. The nature of their business
15 relationship can be seen in text messages that were recovered
16 from Taeyan Williams' phone. You learned that Connor Cox would
17 sell ounces of cocaine and pounds of marijuana for Taeyan
18 Williams. Connor Cox would sometimes drive up to Maryland to
19 get drugs or money from Taeyan Williams to sell at West
20 Virginia University. In fact, you learned that one of the
21 places that Connor Cox would pick up drugs and money was from
22 a house on a cul-de-sac in Laurel, Maryland. Connor Cox told
23 you about a time in which he hung out in Taeyan Williams'
24 basement bedroom within that house and Mr. Cox heard a woman's
25 voice with a Jamaican accent.

1 Eventually Connor Cox's friend introduced him to Noah
2 Smothers in the fall of 2017 and the two went into business
3 together. Noah Smothers would sell his California marijuana to
4 Connor Cox, and Connor Cox would then distribute that
5 marijuana and provide Noah Smothers in cash. Connor Cox told
6 you about how Noah Smothers would carry his marijuana in large
7 black tent bags, similar to the bag that was found in Taeyan
8 Williams' and Scott Williams' home in Laurel, Maryland.

9 Now once Noah Smothers came onto the scene at West
10 Virginia University, Connor Cox stopped selling for Taeyan
11 Williams. He preferred Noah Smothers' marijuana to Taeyan
12 Williams' marijuana. And as a result, Taeyan Williams was
13 unhappy. Connor Cox introduced Noah Smothers to Taeyan
14 Williams in an effort to lower the tension. And as a result of
15 that introduction, Noah Smothers began selling his California
16 marijuana to Taeyan Williams and in exchange, Taeyan Williams
17 would sell him cocaine and cash, give him cash.

18 You learned that Noah Smothers' and Taeyan Williams'
19 business relationship was seen in text messages that were
20 found on Taeyan Williams' phone. On October 27, 2017, Taeyan
21 Williams texted Connor Cox, "When is Noah getting here?" On
22 October 31, 2017 Taeyan Williams texts Connor Cox, "You can
23 send you boy to come down." And Connor Cox writes back "Come
24 through because he wants to know exactly what you want him to
25 bring."

1 You also learned about Noah Smothers' and Taeyan
2 Williams' business relationship from screenshots of Wickr text
3 message communications that were found on Taeyan Williams'
4 phone between Taeyan Williams and Noah Smothers. Noah Smothers
5 lets Taeyan Williams know when he's getting into town and what
6 type of products he has to sell.

7 Now at the same time you see these Wickr communications,
8 you see text messages between Taeyan Williams and Connor Cox
9 asking when Noah Smothers is coming to town. On November 26,
10 2017 you see another screenshot of Wickr text message
11 communications between Taeyan Williams and Noah Smothers,
12 their coordination of this marijuana business.

13 But starting on November 28, 2017 there appears to be
14 some disagreements as seen in these text messages. There's a
15 disagreement about who Connor Cox is working for, Taeyan
16 Williams or Noah Smothers. Taeyan Williams writes to Connor
17 Cox, "Don't sell anything until Noah gets here." Taeyan
18 Williams is jealous. He wants to be the sole supplier at West
19 Virginia University.

20 Starting in late November 2017, Taeyan Williams
21 introduces Noah Smothers to his father, Scott Williams. And
22 Noah Smothers starts selling marijuana to Scott Williams in
23 Laurel, Maryland. You learned that Noah Smothers had Scott
24 Williams' phone number, 929-290-6897 in his contact list for
25 his encrypted KryptAll phone under the contact name "MW."

1 We know this is Scott Williams' number because it was on
2 one of the phones recovered during the search warrant on Scott
3 Williams' side of the bed. The extraction from that phone
4 shows that Scott Williams -- shows Scott Williams' Apple ID
5 and his user account with that number. The extraction of that
6 phone also shows that one of the contacts is "Taeyan son" and
7 "Shelly" which was Scott Williams' partner at the time and who
8 he shares children with. The extraction of that phone also
9 revealed multiple pictures of Scott Williams as seen here,
10 here, and here. The extraction of that phone also revealed an
11 Enterprise picture with Scott Williams' name on it and an
12 e-mail which showed Scott Williams' e-mail address and that
13 same phone number.

14 An extraction of one of Taeyan Williams' phones revealed
15 a text message between Scott Williams at that number and
16 Taeyan Williams. Taeyan Williams had that number in his phone
17 as "OG." The text message asked OG if his date of birth is
18 [REDACTED] 1976 which is the same birthdate as Scott
19 Williams. You also see an e-mail that was found on that same
20 phone, Scott Williams' phone, his OG phone containing an
21 e-mail saying "Happy Birthday from Allstate Insurance" on
22 [REDACTED]

23 Noah Smothers' encrypted KryptAll iPhone also saved
24 Taeyan Williams' phone number as "TA." According to Verizon
25 Wireless, that phone number is subscribed to Taeyan Williams.

1 Also, an extraction of one of Taeyan Williams' phones that was
2 seized in connection with this investigation contained that
3 same number.

4 Now you learned starting around November 2017 that Noah
5 Smothers started delivering marijuana to Scott Williams in
6 Maryland. A screenshot of a Wickr text message communication
7 that was found on Taeyan Williams' phone that was dated
8 November 29, 2017 reveals the details of a deal that happened
9 in Maryland and in West Virginia. Text message communications
10 between Taeyan Williams and Scott Williams from Taeyan
11 Williams' phone shows Scott Williams asking Taeyan Williams to
12 send him the list of marijuana strains that Noah Smothers had
13 dropped off. And, in fact, Noah Smothers -- the extraction of
14 the phone -- whoops. The Wickr text message and the text
15 messages reveal the same marijuana strains sold by Noah
16 Smothers. And, in fact, Noah Smothers creates a note on his
17 AOL account with a list of the same strains on the same day as
18 the text messages between Taeyan Williams and Scott Williams.

19 Now according to the Wickr message between Taeyan
20 Williams and Noah Smothers, as of November 29, 2017, Taeyan
21 Williams begins running up a debt with Noah Smothers. At this
22 time it's \$6,200.

23 Now a few days later on December 9, 2017, there's a text
24 message string which was recovered from Taeyan Williams' phone
25 talking about another delivery by Noah Smothers. And records

1 from Aibnb show Noah Smothers staying in Baltimore on that
2 same date.

3 The next day, text messages between Taeyan Williams and
4 Connor Cox show Taeyan Williams getting increasingly jealous
5 about how Noah Smothers is taking business away from him at
6 West Virginia University. Taeyan Williams writes, "It's not
7 Cox's decision it's mine. Noah is not going to make a move to
8 anyone here without consulting me first." Again, Taeyan
9 Williams is jealous. He doesn't like sharing territory with
10 Noah Smothers.

11 On December 14, 2017 Wickr messages show another
12 marijuana deal between the two. And on that same date, text
13 communications between Taeyan Williams and Scott Williams are
14 about the same deal. Again, both messages have the same
15 marijuana strains that Noah Smothers was selling from
16 California. And, in fact, Noah Smothers modifies an AOL note
17 with a list of the same strains and writes "Tae" next to it.

18 Another message from that same date shows Taeyan Williams
19 telling Noah Smothers that he can meet up with him. And
20 records from Airbnb show Noah Smothers staying in Columbia,
21 Maryland on the same date.

22 Now this Wickr message from December 14, 2017 shows that
23 Taeyan Williams now owes Noah Smothers over \$88,000 for that
24 newest shipment. And a few days later, Noah Smothers modifies
25 an AOL note about Taeyan Williams and Scott Williams' debt.

1 The note talks about what Taeyan Williams stole, and his tab,
2 and what he owes him, and what he didn't pay him for.

3 The parties stipulated in Exhibit 573 that on January 8,
4 2018, law enforcement seized five vacuum sealed bags of
5 marijuana and over \$4,000 in currency which belonged to Taeyan
6 Williams. What was one of the things that was seized? One of
7 Noah Smothers' California bags of marijuana.

8 Now you learned on January 19, 2018 that Noah Smothers
9 rented unit A207 at the EZ Storage facility at 8255 Washington
10 Boulevard in Jessup, Maryland. You learned that the reason he
11 rented that facility was to receive large shipments of
12 marijuana that were being transported from California to
13 Jessup, Maryland. Continuing into February 2017, Taeyan
14 Williams and Noah Smothers continued to discuss business. And
15 Noah Smothers was continuing to meet with Taeyan Williams'
16 guy, Scott Williams in Maryland.

17 On February 16, 2018, text message communications from
18 Taeyan Williams' phone show him and Scott Williams talking
19 about Noah's visit to Maryland and how Scott Williams gave
20 Noah Smothers Taeyan Williams' half, and that Noah Smothers
21 was then traveling to West Virginia. Noah Smothers' Capital
22 One records show him paying a DC ticket on February 16, 2018,
23 and then the next day paying for parking in Morgantown, West
24 Virginia. Now on the same day Noah Smothers arrives in West
25 Virginia and the day after he left Scott Williams in Maryland,

1 there's a picture of Noah Smothers' gummies that was taken by
2 Scott Williams on his OG phone.

3 On February 22, 2018 Taeyan Williams continues to get
4 jealous. They discuss the money that Connor Cox gave to Noah
5 Smothers and Taeyan Williams is upset. "I don't know why you
6 want to do that without telling me that." He's jealous. Again,
7 he wants to be the sole supplier at West Virginia University.

8 Now on March 20, 2018 Wickr screenshots of text messages
9 between Taeyan Williams and Noah Smothers discuss additional
10 marijuana products and the fact that "the Maryland dude may
11 want to wait on the new load coming in." You know about this
12 new load. This is the largest load that Jacob Rayburn and Noah
13 Smothers had done during their business relationship. It was
14 worth more than \$300,000.

15 Scott Williams and Taeyan Williams knew that their time
16 was now to make their move. Taeyan Williams and Scott Williams
17 were in debt to Noah Smothers. They also knew that Noah
18 Smothers was coming in to over \$300,000 worth of marijuana
19 products. It was now or never to cut Noah Smothers from their
20 team once and for all.

21 Now in March, Noah Smothers travels to Morgantown, West
22 Virginia for the last time. Noah Smothers' phone puts him in
23 Morgantown, West Virginia on March 27, 2018 and he eventually
24 goes back to Binghamton, New York. You learned how Noah
25 Smothers' last trip to Morgantown, West Virginia, he met with

1 Connor Cox. Connor Cox told you that Noah Smothers had told
2 him he was planning to meet Taeyan Williams and his family to
3 settle their debt. And Noah Smothers was nervous. Connor Cox
4 described Noah Smothers as pale, as nervous, and Noah Smothers
5 asked Connor Cox should he trust Taeyan Williams and his
6 family to which Connor Cox said rightfully, "No." Noah
7 Smothers was so nervous about that meeting he left Connor Cox
8 with approximately 11 pounds of marijuana before leaving.

9 Now you learned investigators were able to get location
10 records associated with Scott Williams' other phone, the
11 301-655-2283 phone number. That phone number is associated
12 with the second phone that was found on Scott Williams' side
13 of the bed and an extraction from that phone shows the same --
14 that phone number and the same contacts, Taeyan Son and
15 Shelly. Now that same phone number appears on Scott Williams'
16 Google records and his Enterprise records. Location data shows
17 that Scott Williams' phone traveled from Laurel, Maryland to
18 West Virginia on March 29, 2018. Location records associated
19 with Taeyan Williams and Scott Williams show them together in
20 Morgantown on March 29, 2018 and then back at Bristolwood
21 Court that same day.

22 Now on April 3, 2018 Jacob Rayburn and Noah Smothers are
23 preparing for that large shipment of marijuana. Jacob Rayburn
24 had arranged for that \$300,000 worth of products to be shipped
25 through a transportation service from California to Noah

1 Smothers' EZ Storage facility in Jessup, Maryland. A
2 screenshot from Noah Smothers' encrypted KryptAll iPhone
3 reveals a spreadsheet that Jacob Rayburn had prepared
4 regarding that shipment of marijuana which was over \$300,000.

5 April 5, 2018, the date of the delivery. Location records
6 show that Noah Smothers traveled down from Binghamton, New
7 York to Baltimore, Maryland. A Wickr screenshot from that same
8 day from Noah Smothers' encrypted KryptAll phone shows a text
9 message communication between Jacob Rayburn and Noah Smothers
10 in which they're confirming which clients to get which
11 products of that \$300,000 of marijuana. Another Wickr
12 screenshot from that same day show a text communication from
13 Jacob Rayburn and Noah Smothers talking about the box they're
14 receiving. And Jacob Rayburn writes that he will send Noah
15 Smothers "the full manifest."

16 Another Wickr screenshot shows a text message
17 communication between Jacob Rayburn and Noah Smothers and at
18 1:07 p.m. that day he told Noah Smothers, "It's here." The
19 shipment had arrived. Surveillance footage from EZ Storage
20 shows the delivery van pulling up to the gates at
21 approximately 1:09 p.m. Surveillance footage shows Cesar
22 Flores Gomez unloading the truck and delivering 15 boxes into
23 the storage unit. Now later that day at 5:36 p.m.,
24 surveillance footage shows Noah Smothers' rented 2018 Kia
25 Sportage pulling up to the gates at EZ Storage. And

1 surveillance footage shows Noah Smothers coming out of the
2 storage unit with five boxes and a bag.

3 That same day, the manifest that Jacob Rayburn had texted
4 Noah Smothers about is saved on Noah Smothers' encrypted
5 KryptAll iPhone listing the boxes and the marijuana strains
6 that had just been dropped off in his unit.

7 Location records from Noah Smothers' iPhone show him at
8 the Airbnb he rented in Baltimore, Maryland at 651 Bankard
9 Lane at 10:54 p.m. and 11:18 p.m. And Google records show him
10 searching for food around 7:42 p.m. and 10:44 p.m.

11 The next day, April 6, 2018, there are other Google
12 searches, "food near me," "breakfast near me," again near Noah
13 Smothers' Airbnb rental. And that day, on April 6, 2018 at
14 7:51 a.m., Noah Smothers' rented 2018 Kia Sportage is again
15 seen at the EZ Storage facility. Noah Smothers is seen taking
16 out two cardboard boxes on EZ Storage surveillance footage.
17 That same day on April 6, 2018 at 11:20 a.m., Noah Smothers'
18 phone location data put him back near his Airbnb.

19 Now later that day on April 6, 2018 between 12:54 p.m.
20 and 1:05 p.m., Noah Smothers' Google search history shows him
21 searching for food near the EZ Storage facility in Jessup,
22 Maryland at 12:54 p.m., at 1:00 p.m. and 1:05 p.m. And that
23 same day at 1:07 p.m., Noah Smothers' 2018 Kia Sportage is
24 seen again at EZ Storage. Noah Smothers is seen taking out two
25 cardboard boxes and then Noah Smothers' rented 2018 Kia

1 Sportage is seen leaving the facility at 1:21 p.m. and driving
2 southbound on Route 1.

3 At 1:32 p.m. Noah Smothers does a Google search for "food
4 near me." And the location of that Google search is on this
5 exhibit. It's right next to the Red Roof Inn in Laurel,
6 Maryland. Alfred Musa told you about Scott Williams'
7 confession to him. He told you about how Scott Williams' son
8 owed the victim, Noah Smothers, money. And so together they
9 had decided to rob the victim.

10 You learned from Alfred Musa that Scott Williams and
11 Taeyan Williams planned to meet Noah Smothers at this Red Roof
12 Inn. And they wanted to rob him, but they also wanted to
13 torture him for information about his source of supply of
14 marijuana in California. This is the last Google search Noah
15 Smothers does and it puts him right where Scott Williams and
16 Taeyan Williams planned to meet him. In fact, location records
17 for Scott Williams put him at that same location at that same
18 time. And Noah Smothers enters a note at 1:52 p.m. on his AOL
19 account about the deal he thought he was doing with Tae. That
20 same note contains a breakdown of the Williams' debt which
21 totals \$30,000, the same amount Noah Smothers had told Connor
22 Cox about before leaving on his fateful trip. You learned that
23 data associated with Noah Smothers' cell phone shows him
24 directly at Bristolwood Court at 2:03 p.m. and 3:12 p.m.
25 Location records from Scott Williams' cell phone puts him

1 there as well. And Uber records for Taeyan Williams puts him
2 also at Bristolwood Court.

3 Ladies and gentlemen, after that, Noah Smothers is never
4 seen again. All activity on Noah Smothers' electronic accounts
5 go dead. Noah Smothers' phone stops. Noah Smothers' Wickr
6 stops. Noah Smothers' iCloud stops and Noah Smothers' Capital
7 One account stops. Noah Smothers is never seen again. And
8 evidence shows in the hours and days after Noah Smothers
9 disappears, the defendants, Scott Williams and Taeyan Williams
10 carried out their plan of kidnapping, robbing, torturing and
11 killing Noah Smothers for his marijuana, his money, and his
12 supplier. The evidence will show that they tried to bury the
13 evidence of their crimes just like they did Noah Smothers.

14 Now what does the evidence show? Well, on the same day
15 Noah Smothers disappears at 7:06 p.m. to 7:17 p.m., Taeyan
16 Williams' phone is near the EZ Storage facility where that
17 \$300,000 worth of marijuana is. While he's near that facility,
18 he enters a note on his phone with that same address of the EZ
19 Storage. And the phone call that Taeyan Williams receives
20 putting him right near that EZ Storage, that call is from
21 Scott Williams on his OG phone. Taeyan Williams' phone is then
22 located traveling the Beltway around Tysons Corner. And at
23 two of these locations he received a call from Scott Williams
24 on the OG phone. Location data from Scott Williams' phone show
25 him at Bristolwood Court at 7:15 p.m. And one of the laptops

1 that was found at Bristolwood Court revealed a search that was
2 done for EZ Storage Jessup at 7:59 p.m. that same day. Patti
3 Chaplin told you she didn't do that search, Scott Williams
4 did. Because about a half-hour later on April 6, 2018 at 8:37
5 p.m., EZ Storage surveillance footage and records show a
6 Nissan Altima arriving at the EZ Storage facility and entering
7 Noah Smothers' PIN. EZ records show that Noah Smothers' unit
8 was never accessed despite his PIN being entered at the front
9 gate. EZ Storage surveillance shows a person in a red shirt
10 driving a Nissan Altima.

11 And later that night Scott Williams is back at
12 Bristolwood Court. He's there at 11:56 p.m. and one minute
13 later, Taeyan Williams creates a note on his phone. Ladies and
14 gentlemen, this note is important. It contains a six digit
15 number. 15, 21 and 42. You learned about those numbers during
16 this trial. The Government and defense stipulated that Noah
17 Smothers wore jerseys when he was a teenager with the numbers
18 15, 21 and 42. You also learned about notes on his AOL account
19 where he listed his usernames and passwords. All of those had
20 the numbers 15, 21 and 42. We submit to you this six digit
21 number is Noah Smothers' password for his encrypted KryptAll
22 iPhone which Taeyan Williams and Scott Williams desperately
23 wanted access to because they wanted to obtain the contact for
24 his marijuana supplier in California.

25 Now under those digits in this note there's something

1 else that's important. Kipphone 164171. Kipphone 164171 is a
2 KryptAll encrypted iPhone and it has an accompanying Wickr
3 screen name for that same username. The only people that you
4 heard about who had KryptAll phones in this case is Noah
5 Smothers and his west coast suppliers. Scott Williams and
6 Taeyan Williams got into Noah Smothers' encrypted phone
7 because you see that KryptAll number in Noah Smothers'
8 contacts as "P."

9 Now during the critical time in this case you learned
10 there's no cell phone activity or location data for Scott
11 Williams or Taeyan Williams for more than 12 hours, from April
12 6, 2018 at 11:57 p.m. through April 7, 2018 at 12:53 p.m. You
13 also learned that during that time Patti Chaplin, Scott
14 Williams' partner, called Scott Williams in the middle of the
15 night at 2:27 a.m. Patti Chaplin told you she would not have
16 called him if he was home. Scott Williams was not home that
17 night. He was up in Baltimore because on April 7, 2018 at
18 4:38, a.m., Noah Smothers' rented 2018 Kia Sportage was
19 dropped off at Windsor Forest Apartments in Baltimore at a
20 parking lot off of Dickey Hill Road. Surveillance footage
21 showed -- from that parking lot shows Noah Smothers' 2018 Kia
22 Sportage driving into the parking lot followed by a Nissan
23 Altima, identical to the Nissan Altima that was seen at the EZ
24 Storage facility. The person driving Noah Smothers' rented
25 2018 Kia Sportage was in a red sweatshirt, the same color and

1 clothing that was worn by the person seen in the Nissan Altima
2 at the EZ Storage facility. In the video you can see the
3 person getting out of the 2018 Kia Sportage with a rag in his
4 hand. Our FBI expert told you that the person in the red
5 sweatshirt is under 6 feet tall. You also see a second male
6 wearing a gray sweatshirt getting out of the Nissan Altima and
7 he appeared to be shorter than the person in the red
8 sweatshirt. You also learned that Scott Williams' MVA records
9 show him as being under 6 feet; 5 feet, 11 inches. Taeyan
10 Williams, 5'9".

11 Now after the Kia Sportage was dropped off, the person in
12 the red hooded sweatshirt and the gray hooded sweatshirt get
13 into the Nissan Altima, turn off their lights and drive away
14 at 4:44 a.m. in the morning. The Nissan Altima drove away
15 from the parking lot towards the license plate reader at
16 Dickey Hill Road where it was caught on camera with a
17 Massachusetts license plate of 5XY974. Enterprise records show
18 Scott Williams renting a gray Nissan Altima with Massachusetts
19 plates 5XY974.

20 Noah Smothers' rented 2018 Kia Sportage was later towed
21 back to Enterprise at BWI where it was photographed. Those
22 photographs show blood stains on the rear bumper that later
23 tested positive for blood. The back gate also had apparent
24 blood stains that tested positive for blood; black boots, size
25 15, the same size as Noah Smothers were found in the vehicle;

1 and a Dunkin' Donuts gift card made out to Noah was also
2 found. A water bottle with Noah Smothers' DNA on it and blood
3 stains on the top back frame of the vehicle were also
4 apparent. Those blood stains matched the blood on the frame of
5 the back door which tested positive for blood and Noah
6 Smothers' DNA. The car door had whites on it -- white marks on
7 it, and its rear passenger side seats were down at the time
8 that it was towed to Enterprise at BWI.

9 The back trunk area was later tested and it came back
10 positive for blood in multiple areas. It also contained Noah
11 Smothers' DNA. There was so much blood it had seeped through
12 the carpet on the back trunk and you could see it on this
13 metal. Swabs taken from this metal came back positive for
14 blood and again, Noah Smothers' DNA. This large amount of
15 blood is consistent with Scott Williams' confession to Alfred
16 Musa that Scott Williams stabbed Noah Smothers to death in the
17 back trunk of the car.

18 Now what were the defendants doing after they dropped off
19 Noah Smothers' car in Baltimore? They were together at
20 Bristolwood Court. The next day on April 7, 2018 at 9:05 p.m.,
21 that same Nissan Altima is seen entering Noah Smothers' PIN at
22 the EZ Storage facility with its back trunk opened. Because it
23 was past 9 p.m. they couldn't get in. So the next night on
24 April 8, 2018 a Nissan Altima is seen entering Noah Smothers'
25 PIN at the EZ Storage facility.

1 Now this time it got onto the property and Noah Smothers'
2 storage unit is accessed. A Nissan Altima is then seen driving
3 away from the area with a car full of cardboard boxes and
4 bags, and bags of marijuana. You heard that Kyle Simms later
5 rented that exact same vehicle that Scott Williams rented and
6 performed the same drive. And you learned the cars are
7 identical.

8 Scott Williams and Taeyan Williams thought they got away.
9 They thought they buried Noah Smothers and all the evidence of
10 their involvement in his murder. But on April 11, 2018 Noah
11 Smothers' family started search efforts. They couldn't get a
12 hold of him. On April 12, 2018 EZ Storage discovers a bunch of
13 empty cardboard boxes in Noah Smothers' storage unit. Those
14 boxes contained the same markings as those on the manifest
15 that Jacob Rayburn had sent to Noah Smothers regarding the
16 shipment of \$300,000 worth of marijuana.

17 Three days later, on April 15, 2018, Connor Cox texts
18 Taeyan Williams about Noah Smothers. Connor Cox writes to
19 Taeyan Williams, "Yo have you heard from Noah recently?"
20 Taeyan Williams writes back, "No, I been trying to hit him up
21 too." In response Connor Cox writes back, "His people said he
22 was last heard when he was in Balt about a week ago. You care
23 if I give you this dude's number? He's one of Noah's people
24 trying to find him because he's been MIA for a little." Taeyan
25 Williams doesn't respond.

1 Ladies and gentlemen, you know who that person was that
2 reached out to Connor Cox. It was Jacob Rayburn. Jacob Rayburn
3 told you how he had gotten the Wickr name "Taesowavey" from
4 one of Noah Smothers' clients. Jacob Rayburn told you that he
5 had spoken to and communicated with Taeyan Williams. He wanted
6 to know where Noah was. In response, Taesowavey asked Jacob
7 Rayburn could they continue doing business if Noah Smothers
8 was out of the picture, just like Scott Williams and Taeyan
9 Williams had planned. They wanted to take the place of Noah
10 Smothers and be the direct contact with the person in
11 California.

12 The same day that Connor Cox reached out to Taeyan
13 Williams, Taeyan Williams created a note with Jacob Rayburn's
14 Wickr handle, Larrybird50 in his phone.

15 Connor Cox also told you about the last time he saw
16 Taeyan Williams and how Taeyan Williams -- when Connor Cox
17 asked about Noah Smothers, Taeyan Williams said he was asking
18 too many questions.

19 Now with not much information to go on, Noah Smothers'
20 family hired a private investigator to track down Noah
21 Smothers. And on April 26, 2018, the private investigator
22 called Taeyan Williams to ask him about Noah Smothers. Jared
23 Stern, the private investigator told you that when he asked
24 Taeyan Williams where Noah Smothers was or if he knew Noah
25 Smothers, Taeyan Williams' response, "I don't know him."

1 Quickly got off the phone. The private investigator later
2 texted Taeyan Williams a photograph of Noah Smothers and asked
3 for more information. But the investigator never heard back.

4 You also learned about a search warrant that was done on
5 Bristolwood Court on June 6, 2018. In the basement closet
6 investigators found a bag of cocaine and methamphetamine
7 pills. They also found a Sig Sauer handgun on the same shelf.
8 Under that shelf they found a crawl space which contained 16
9 bags of Noah Smothers' California marijuana. And in Taeyan
10 Williams' basement bedroom, law enforcement found more
11 marijuana, including a bag of Noah Smothers' California
12 marijuana.

13 Investigators also searched the shed in the back of the
14 house which contained 35 more bags of Noah Smothers'
15 California marijuana. A search of the Nissan Altima parked
16 outside revealed another bag of Noah Smothers' California
17 marijuana.

18 Now in the primary bedroom where Scott Williams shared --
19 which Scott Williams shared with Patti Chaplin, investigators
20 found three guns: A Bryco/Jennings 38 handgun found in the
21 dresser drawer; an AK-style Century Arms Sporter found in the
22 shelf in the closet, and a Beretta 21A handgun found on the
23 same shelf in the closet.

24 Also in the primary bedroom were marijuana products,
25 including a bag of Noah Smothers' California marijuana, two

1 bags of Noah Smothers' marijuana gummies, and three bags of
2 Noah Smothers' vape cartridges. In total, investigators found
3 approximately 72 pounds of Noah Smothers' California
4 marijuana. You saw that marijuana in court. Investigators also
5 found a bag of methamphetamines that had tried to be flushed
6 down the toilet in the bathroom next to the primary bedroom.

7 Under Scott Williams' side of the bed investigators found
8 a black tackle box with \$190,000 in cash. And finally, under
9 the mattress on Scott Williams' side of the bed was a
10 four-page manifest that had been left in Noah Smothers'
11 storage facility by the transportation service. However,
12 something was different about this manifest than what the
13 transportation service had left. The manifest on the right
14 side had lettering: "Me," "Tae" and "Team" written on the
15 right side.

16 Now you saw evidence of Scott Williams' handwriting on a
17 check that he wrote on his business account at Exhibit 155.
18 You should just compare that handwriting to the handwriting on
19 the ledger: "Me," "Tae" and "Team" at Exhibit 91. The same
20 capital lettering appears on both.

21 You also saw evidence of Scott Williams' handwriting on a
22 business card he gave Kerry George with instructions to get
23 his phone and then wipe it of evidence at Exhibit 417B. You
24 should compare that handwriting to the handwriting on the
25 ledger, "me," "Tae" and "Team." Again, same capital lettering

1 appears on both.

2 Now let's talk about the Sig Sauer handgun that was found
3 in the basement closet near Taeyan Williams' bedroom at
4 Bristolwood Court. You learned how on multiple parts of this
5 firearm it came back positive for blood. You also learned how
6 Noah Smothers' DNA was all over this handgun. Noah Smothers'
7 DNA was not just found on the outside of the firearm, it was
8 found inside of the firearm in the inner workings of the
9 firearm and in the inner slide of the firearm.

10 Now to get into the inner parts of the firearm, Noah
11 Smothers' DNA had to go through the tiny space on the muzzle
12 of the firearm. The fact that Noah Smothers' DNA ended up
13 inside the firearm, that's consistent with Scott Williams'
14 confession to Alfred Musa that he stuck a firearm down Noah
15 Smothers' throat when he was torturing him.

16 Now you also heard information from Scott Williams
17 himself during an interview when law enforcement showed him a
18 picture of Noah Smothers and asked if he had ever seen him
19 before. His response, "Never seen that guy before." When law
20 enforcement asked him about the Nissan Altima, Scott Williams'
21 answer, "The only person who ever drove that car was me and D,
22 that's it." When law enforcement asked him about the EZ
23 Storage, his answer, "Never been there." And on the topic of
24 Taeyan Williams, Scott Williams' answer, "He's my cousin who
25 hasn't been here since March."

1 You also heard Scott Williams on jail calls with his
2 partner, Patti Chaplin. On June 8, 2018 Scott Williams tells
3 Patti Chaplin to "call Big Boy," or Taeyan and tell him to
4 "stay low, change numbers because they're going to get that
5 junk." Now on that same call you heard Scott Williams tell
6 Patti Chaplin that she needs to "look by the Lightning junk."
7 Lightning was their dog and his crate was in that basement
8 closet. Scott Williams was scared what investigators would
9 find if they looked in that closet by the Christmas
10 decorations. They would find 16 bags of Noah Smothers'
11 California marijuana, a bag of cocaine and methamphetamines,
12 and that Sig Sauer handgun with Noah Smothers' blood and DNA
13 on it.

14 On a call the next day on June 9, 2018 you heard Scott
15 Williams talk about how he was concerned that law enforcement
16 had gotten in the shed and how "we thought they would never go
17 into that crawl joint." On another call on June 9, 2018 you
18 heard Scott Williams talk about how he was "concerned law
19 enforcement had pulled up the mattress." What was under that
20 mattress? That manifest, that four-page manifest of Noah
21 Smothers' marijuana shipment of over \$300,000 of marijuana
22 products.

23 On July 23, 2018, Taeyan Williams was placed in jail and
24 two of his phones were seized. You heard Taeyan Williams and
25 Scott Williams on a jail call from August 8, 2018. And in that

1 jail call they discussed how to obtain Taeyan Williams'
2 phones. They were nervous that the police were going to get
3 them. They're nervous about what's on those phones and how it
4 will incriminate them. Let's take a listen.

5 **(Audiotape was played.)**

6 **MS. GROSSI:** And on this next clip, Taeyan Williams
7 is trying to explain to his father, Scott Williams, what's on
8 that phone, and how they can prove their crimes based on the
9 photos on that phone. Taeyan Williams also blames Scott
10 Williams for the mess they're in because in his words, Scott
11 Williams still left all that shit at the house after he told
12 Scott Williams that the private investigator was onto them.
13 Let's take a listen.

14 **(Audiotape was played.)**

15 **MS. GROSSI:** In this next clip, Taeyan Williams is
16 trying to explain to his father what's on his phone, "The
17 social media photos are the problem." Now as you've seen in
18 this case, Wickr screenshots on Taeyan Williams' phone are the
19 problem for them. It shows a connection between Taeyan
20 Williams, Scott Williams, and Noah Smothers. Let's take a
21 listen.

22 **(Audiotape was played.)**

23 **MS. GROSSI:** In this final clip on the same call,
24 Taeyan Williams is expressing worry about these impending
25 charges that he and Scott Williams are facing about Noah

1 Smothers. He knows they're coming, but Scott Williams keeps
2 telling him to stop incriminating himself. Let's take a
3 listen.

4 (Audiotape was played.)

5 MS. GROSSI: Now as the judge explained to you
6 yesterday, the defendants are charged with nine counts. The
7 first six counts are against both defendants. Count One is
8 conspiracy to distribute or possess with intent to distribute
9 controlled substances. Now this charge relates to the
10 defendants; conspiracy to distribute marijuana and cocaine.
11 You learned about this conspiracy through text messages,
12 testimony, and pictures. You heard from Brandon Drummond,
13 Oscar Diaz, and Connor Cox. They all told you about their
14 involvement in the conspiracy and the defendant's involvement
15 in distributing cocaine and marijuana.

16 Count Two is conspiracy to interfere with interstate
17 commerce by robbery or extortion. This charge alleges that the
18 defendants conspired to physically rob Noah Smothers of his
19 marijuana, his phone, EZ Storage PIN number and his 2018 Kia
20 Sportage. The defendants are also alleged to have extorted
21 that information and those products by torturing Noah Smothers
22 to obtain those same things.

23 Count Three is interference with interstate commerce by
24 robbery or extortion. Here the defendants are alleged to have
25 not just conspired to rob and extort Noah Smothers, but to

1 actually carry through on that conspiracy.

2 Count Four is kidnapping with death resulting. The
3 defendants are alleged to have kidnapped and caused the death
4 of Noah Smothers.

5 Count Five is possessing, using, carrying, and
6 brandishing a firearm during and in relation to and in
7 furtherance of a crime of violence or a drug trafficking
8 crime. This count relates to the possession and use and
9 brandishing of that Sig Sauer firearm we've been talking about
10 that was found in the basement closet of the Bristolwood Court
11 home next to Taeyan Williams' bedroom. This relates to Count
12 One, conspiracy to distribute marijuana and cocaine; Count
13 Three, interference with interstate commerce by robbery; and
14 Count Four, kidnapping with death resulting.

15 They're also charged with Count Six, possession with
16 intent to distribute controlled substances. And this charge
17 relates to the defendant's possession with intent to
18 distribute marijuana and cocaine.

19 Now the last three counts are only against Scott Williams
20 and these crimes relate to the methamphetamines and the
21 firearms that were recovered from the Bristolwood Court
22 address on June 6, 2018, as well as Scott Williams' efforts to
23 destroy and conceal evidence.

24 Count Seven was possession with intent to distribute
25 controlled substances and this is the methamphetamines that

1 were discovered during the search at Bristolwood Court. You
2 learned from the Maryland State Police chemist that those two
3 bags found in the Bristolwood Court address together weighed a
4 total of 546.93 grams.

5 Now Count Eight is possession of a firearm in furtherance
6 of a drug trafficking crime. And this count relates to those
7 four firearms and the drugs found therein. It relates to Count
8 Six, possession with intent to distribute marijuana and
9 cocaine; and Count Seven, possession with intent to distribute
10 meth.

11 Now Count Nine is conspiracy to destroy and conceal
12 evidence. This count relates to Scott Williams and his attempt
13 to flush those methamphetamine pills down the toilet when law
14 enforcement got to his house. It talks about how he directed
15 Kerry George to wipe his iCloud data and to get his phone and
16 wipe that data too. It also talks about how Scott Williams
17 attempted to get Taeyan Williams' phone and to conceal and
18 destroy evidence.

19 Now Judge Chuang instructed you on conspiracy. I'd ask
20 that you pay close attention to these instruction numbers:
21 71, 78, and 92. Those instructions talk about conspiracy, but
22 they also talk about additional ways in which you can find the
23 defendants guilty because of that conspiracy.

24 Judge Chuang also instructed you on aiding and abetting.
25 I'd ask that you pay close attention to that instruction which

1 is at 91.

2 Ladies and gentlemen, Scott Williams and Taeyan Williams
3 buried Noah Smothers in an unmarked grave. They did that
4 successfully. But they couldn't bury the evidence of their
5 crimes. The evidence proves beyond any reasonable doubt that
6 Scott Williams and Taeyan Williams are guilty of the crimes
7 they've been charged with and the United States asks that you
8 find them guilty. Thank you.

9 **THE COURT:** Thank you, Ms. Grossi.

10 Okay, next we will hear from defense counsel for Scott
11 Williams and that is Mr. Hawks. Again, if you'd like to
12 stretch while he's getting organized you're welcome to do
13 that. We'll take a break after this presentation. Just make
14 sure your microphone is working.

15 **MR. HAWKS:** Your Honor, may it please the Court.

16 **THE WITNESS:** Yes, of course.

17 **MR. HAWKS:** May it show due regard to my learned
18 counsel, ladies and gentlemen of the jury, good morning. Now
19 at the beginning of this case, the defense team for Scott
20 Williams and me specifically, I stood right here and I told
21 you that at the bottom, the case against Scott Williams is a
22 weak, circumstantial case and as we start our third week of
23 trial after all the evidence is in, nothing has changed. This
24 is a weak, circumstantial case.

25 The case against Scott Williams is based basically on two

1 groups of facts. Fact number one: A bunch of drugs, 72
2 pounds, that's a lot of drugs, were found in his house. Fact
3 number two, a car that he had rented was found in two places
4 that were linked to a missing person, Mr. Noah Smothers. There
5 is no scientific evidence, not a fingerprint, not a speck of
6 DNA which connects him to the disappearance of Mr. Noah
7 Smothers. There is not an eyewitness who connects him to the
8 disappearance of Noah Smothers.

9 Now there's somebody out there that we're going to talk
10 about at length. His name is Alfred Musa. He claims he heard a
11 confession. That's as close as this Government gets to
12 actually linking Mr. Scott Williams to the disappearance of
13 Noah Smothers. Everything else requires you to make a leap.

14 Now you would be justified in asking, "Okay, but how did
15 it get in his house? Why did his car get connected to this
16 disappearance?" You've heard all the instructions from the
17 judge. You've heard about conspiracy, you've heard about
18 aiding and abetting, and you've heard about liability as a
19 principal. Liability as a principal is the idea that you did
20 it. Aiding and abetting is the idea that you helped somebody
21 do it. Conspiracy is you agreed to do it. Given all the
22 instructions that you've heard, this much is clear: To be
23 guilty of any of those things, you have to help in time. What
24 I mean by that "in time" is that if a person commits a crime
25 and then they go to another person and they say, "I made a

1 mistake. I need your car. I need your help." And you help at
2 that point after the event is done, you have committed a
3 serious crime. You've committed the crime of obstruction of
4 justice. You have not committed the crime that that person who
5 you're helping did.

6 I hope it wasn't lost on anyone this weird parallel that
7 we had in this case. The very first witness who testified in
8 this case was a father whose son was wrapped up in something
9 illegal, and something dangerous. And when that illegal,
10 dangerous thing kind of exploded, that father lied to the
11 police. He reached out to his son's drug connect and he
12 conspired with him to remove evidence and then he didn't tell
13 the police about that for years. All of those acts never made
14 him a drug dealer because that help that he offered wasn't in
15 time. He wasn't helping with the drug dealing, he was helping
16 cover it up. And so if Mr. Taeyan Williams came to his father
17 and he said, "Me and some people did something with a guy and
18 it all went sideways and I need your help." If he helped, he
19 doesn't get a citizenship award. He has violated the law, but
20 he has not kidnapped anyone, he has not robbed anyone, he has
21 not extorted anyone and he's not guilty of those offenses.

22 The truth leaves clues. There's a reason why with all the
23 fingerprints, with all of the DNA, with all the pictures and
24 close -- this text phone, this Wickr message and this, there's
25 a reason why they still can't connect him to the disappearance

1 of Noah Smothers, and that's because he had no part in it.

2 I'm going to ask my colleague to play the second -- it's
3 the 530 at five minutes and 53 or ID 29, either one. And
4 members of the jury, I've talked with her and I'm going in a
5 little different order, so she has to --

6 **(Audiotape was played.)**

7 **MR. HAWKS:** Okay, "Did you see the warrant? It was
8 for that. It was for Tae." This is the first conversation that
9 Scott Williams has with Ms. Patti Chaplin, his partner, right
10 after he's put into jail. "Did you see the warrant? It was
11 for that. It was for Tae." That's significant because the
12 warrant that they're talking about, you don't get the
13 affidavit. You don't get what Sergeant Simms wrote to a judge,
14 you just get a piece of paper that says "We have the right to
15 search your house." So when he says that statement, he's not
16 basing it -- he never saw the warrant. He's pulled out of the
17 house in the beginning, he's put into a police car and he's
18 taken to jail. He never sees the paper. But he talks to
19 Sergeant Simms. And Sergeant Simms first says, "Oh, it's
20 about stealing cars or whatever," but Sergeant Simms works his
21 way over to "There's this guy, Noah Smothers. Do you know
22 anything about it?" And immediately the light goes off and
23 this is his own guarded thought talking to Patti Chaplin. He's
24 not setting something up, he's talking to Patti Chaplin about
25 what this is about. "It's not me, this is that thing for Tae."

1 841 for Exhibit 535.

2 (Audiotape was played.)

3 MR. HAWKS: Now you just heard this clip in the
4 prosecutor's opening. "Once again I have to clean up your
5 mess." Again, if you thought perhaps he was trying to set
6 something up with Patti Chaplin, he was trying to blame his
7 son when he's talking to Patti, now he's talking directly to
8 Taeyan and he tells him once again, "I have to clean up your
9 mess." You have this entire jail call. You can listen to the
10 whole thing. You'll hear Taeyan doesn't push back and say,
11 "What are you talking about? This thing was your idea." What
12 he says is "No, basically it's your mess because I told you to
13 get rid of the stuff after the fact." He doesn't push back on
14 the idea of "Hey, it's my mess." He pushes back on the idea
15 of "Had you listened to me and gotten a better job of getting
16 rid of things that were created with my mess, we wouldn't be
17 in this predicament."

18 So the point is these are the unguarded conversations
19 between the people who are involved. It's his mess.

20 Now you might have the question, "Well, then why are we
21 here? Why didn't he just go to the police years ago? He's
22 been in jail for nearly five years. Why are we here facing all
23 these charges?" And it's clear to understand, I speak on
24 behalf of Scott Williams. He doesn't tell me what to say. He
25 is protective. You can listen to that interview that he gives

1 to Sergeant Simms and he's playing dumb. "Who is that guy in
2 your house?" It's his brother, Rico Carty. He says, "I don't
3 know who that is. You're going to have to ask me." "Do you
4 know this? Do you know that?" "I don't know anything." Until
5 Sergeant Simms says "Look, we got a lot of drugs in your
6 house. There's only a few adults. I can put it on your
7 brother, I can put it on Ms. Chaplin, or I can put it on you."
8 He says, "It's all mine. Don't put anything on anybody else.
9 It's all mine." This guy is protective.

10 And as you'll hear, not only does he not want to
11 implicate his son, not only does he not want to implicate his
12 brothers, but he doesn't want to implicate any possible
13 brothers-in-law.

14 Now before I go any further, I should make it clear this
15 is not a contest. And what I mean by that is this isn't a case
16 where the prosecution tells you a story and you listen to them
17 and you go "Hmm, okay." And then the defense, one defendant
18 tells you a story, you listen to them you go "Hmm." And the
19 other defendant tells you a story, you go "Hmm" and you weigh
20 the stories and you say, "I like theirs best" or "I like
21 theirs best." That is not how this process works. They tell
22 you what the evidence is supposed to show happened. And then
23 we sit back and we poke holes in that story. Both sides. And
24 at the end of that process you listen to their story and you
25 say, "After I've considered all of it, is that true beyond a

1 reasonable doubt? Did that convince me?" So it's not a does
2 their story make more sense than the version that we tell,
3 it's are you so convinced by their story that you know it's
4 true.

5 You've heard this before, but in a case like this, an
6 important case, essentially this is a murder case, I've just
7 got to say it. Beyond a reasonable doubt, there are all kinds
8 of standards of the law. There's a standard called mere
9 suspicion. There's a standard referenced in the Constitution
10 called probable cause. In civil juries there's a standard
11 called preponderance of the evidence. There's even a standard
12 called clear and convincing evidence. Clear and convincing
13 evidence. All of those standards are below proof beyond a
14 reasonable doubt. It's an extremely high standard. You've
15 heard it before. It's the highest standard in law.

16 Essentially what both defendants are going to ask is that
17 you give these defendants and you give the evidence and the
18 arguments they advance, the benefit of the doubt. And in a
19 case particularly like the case against Scott Williams and
20 frankly, the case against Mr. Taeyan Williams, it's a
21 circumstantial case. You're going to have to make a leap.
22 You're going to have to trust and prove things or believe in
23 things you cannot see to get there to a conviction on the most
24 serious charges in this case. And at the end of this process
25 we're going to beg you, do not make that leap because they

1 don't have it.

2 In fact, the only thing that they do have in this case to
3 try to encourage you to make that leap is Alfred Musa. So
4 let's talk about Alfred Musa. Now we never know, we're not in
5 your chair. We never know how things that we see, how you guys
6 see them. But I stood here at the beginning of this trial and
7 I said, "He is a professional liar." And I feel like I
8 delivered. The only thing that surprised me, we saw him for
9 the first time that you did. We read all about him, but we had
10 never seen him before. The only thing that surprised me about
11 Alfred Musa is frankly, I thought he'd be better at lying.

12 There are a couple of key areas that you can look to to
13 decide whether somebody is honest. One is their background.
14 Are they the type of person who has done dishonest things in
15 the past? And that's an area where you evaluate, "should I
16 trust this person?" And I hope it's clear to you that Alfred
17 Musa is not normal. There are people who come to court and 11
18 years ago they had something with their taxes and it was kind
19 of fishy. Three years ago they got caught with some kind of
20 lies. Alfred Musa is probably not an exaggeration to say 50
21 percent of all the official things he said, things that change
22 his legal status, things that affect an interest in money.
23 They were lies. That's remarkable. It's mind blowing. There
24 are plenty of people who have told a lie, even a lie under
25 oath who you might be able to trust. But on just the basis of

1 his background alone I would urge you you cannot trust. You
2 cannot believe anything advanced by Alfred Musa.

3 But there's more. Alfred Musa has a motive. He currently
4 is under a ten-year sentence and he has another charge for the
5 same thing where he's going to be sentenced again. He has
6 every reason to say whatever he can to reduce the amount of
7 time he's going to spend in jail. And what would he do to get
8 out of jail? Well, he would blame AT&T without any evidence
9 and he signed an affidavit. He swore to the Court that AT&T, a
10 major American corporation picked him and framed him. That's
11 what he's willing to do to get out of trouble. Then he sued
12 the prosecutors in his case and the agents in his case, but
13 that wasn't enough. When all of that was failing, then he
14 reached out to the people he just sued, he just accused them
15 of being frauds and liars and he went to them and said "Hey,
16 I've got information on a murder." And so again, his motives.
17 You can't trust his motives.

18 But there's more. You look at his story and let's -- I
19 would urge you please, take a step back. The facts that are
20 missing in this case are pretty much obvious. Any lawyer
21 looking at this case will say, "Okay, they've got this
22 circumstantial case, but the thing that's missing is the
23 direct proof." Every lawyer he's met with, five minutes after
24 they open the case file, that's the conclusion they came to.

25 And make no mistake about Alfred Musa, I know he got his

1 GED later, that's a smart guy. You heard the letters he wrote.
2 They sounded like old law books, flowery language. He's a
3 bright guy and he figured out what was missing in this case.
4 He figured out what they needed to solve their problem. And he
5 gave it to them. You need a body. You need to explain what
6 happened to the body because you never found it and you need
7 to put him in the middle of it. You need to get it out of the
8 circumstantial "maybe he knew, maybe he didn't" into "I knew
9 he did it." He delivered that.

10 We had these questions about, you know, he took a selfie
11 in a trash chute and there was objections and ultimately
12 that's very relevant because it shows who Alfred Musa is. He
13 is audacious. He's willing to take a gamble, he's willing to
14 show off and so he invents things hoping it pays off. He
15 invents a cell phone. "Oh, he talked to a third man on the
16 cell phone." He knew there was a cell phone in jail. Maybe he
17 heard that Scott Williams was on it and he put two and two
18 together and thought, "This will be a jackpot. If that cell
19 phone had something on it for Scott, then that would prove I'm
20 telling the truth." He took a gamble, they found the cell
21 phone. There was nothing on there.

22 He talked about Red Roof Inn. Now we know he stays in a
23 Red Roof Inn about a mile-and-a-half, two miles from his
24 house. He was there about three weeks before this, he was
25 there about three weeks after this. There are two people

1 checked into that Red Roof Inn on those two occasions: One of
2 them was Scott Williams, the other one wasn't Patti Chaplin.
3 Guys are in jail, guys talk. "I go to Red Roof Inn to do my
4 dirt." He knows there's a Red Roof Inn through his house.
5 Again, Alfred Musa takes a chance. Doesn't pay off. There's no
6 evidence that anything happened at a Red Roof Inn. And if you
7 step back and think about it, it's pretty absurd that you
8 would -- the Government said he was tortured and beaten and
9 you're doing that in a Red Roof Inn? It's going to be messy,
10 people are walking by. He's a very, very tall person. Noah
11 Smothers is very tall. He stands out. You're going to do that
12 all in a Red Roof Inn?

13 You heard that Alfred Musa changed his story and he
14 explained on the stand, "Well, the reason why I changed my
15 story is that Scott Williams changed his story." Wait a
16 minute, the whole point of what he's saying is that Scott
17 Williams did it. So why would Scott Williams change his
18 story? Scott Williams did it. He's not reacting to new
19 evidence as it's coming in. If he did it, he did it. There's
20 only one story. Why would he change his story? It's just
21 another way that what Alfred Musa is telling you doesn't make
22 sense.

23 Just please keep in mind, everything that he told you
24 that could be independently verified turned out to be false.
25 There was no phone, there was nothing that proves anything

1 happened at a Red Roof Inn. They never found a body. And I
2 hope it's clear to you how thorough the Government is. It came
3 up in like a minute or five minutes they said, "What efforts
4 did you make?" They canvassed Baltimore. That means they
5 sent a team of officers in Baltimore with pictures asking
6 questions. Nothing. They had fraud men in bodies of water
7 around here. They called every morgue and hospital in five or
8 six states. They were thorough. If there was something that
9 happened at a Red Roof Inn, somebody would have said "Yeah, I
10 remember a 6 foot 6 guy getting into a trunk." Somebody --
11 that would have turned up.

12 The U.S. Attorney's Office anywhere, but particularly
13 here near the nation's capital is a difficult job to get. To
14 work in that job you can be sure these are experienced
15 prosecutors. These are good lawyers who have done well. They
16 understand Alfred Musa is a terrible witness. They understand.
17 So why would they put him on in this kind of case? It's
18 because they need him. They need him. They need him to have
19 you make that leap. And you see these and I'll just call them
20 what they are, they're silly efforts to bolster Alfred Musa.

21 They had the captain from the guard come down and say
22 that Alfred Musa pushed the meal cart and he got a special
23 meal, so that was a place where they interacted. They said
24 that "Oh, they met in the Islamic religious services and that
25 was a place where they met." I asked him questions and

1 throughout this you may have wondered, what are the point of
2 some of the questions I asked? I asked about the dates that
3 they met with Alfred Musa. They met with him in October of
4 2020 and then again in May of 2021. All the evidence about
5 those -- the things that they need, you know, that there was
6 location data that put it in the vicinity of that Red Roof Inn
7 and the house, all of that was -- he knew that. His lawyers
8 knew it and he knew it long before that. But the evidence that
9 they put in -- and you'll have a chance to see it, those
10 records of the religious services, they start in 2022, a year
11 after they met him. If the whole point of putting that in was
12 to prove that he had a chance to talk to Alfred Musa, that
13 doesn't prove that. They're just trying to make a point to you
14 that doesn't -- it doesn't make that point.

15 And it brings up something that you may have noticed in
16 this case. This team is very, very good at over-proving things
17 that are obvious, perhaps to cover for the fact that they
18 can't prove things that are necessary. So in this case we had
19 an expert who felt like he was testifying for an hour to
20 explain that a 2018 Altima is a 2018 Altima. I mean, he talked
21 about how the diagram went and Mr. Crawley said, "Just look at
22 the VIN." They put that in. They flew the director of some DNA
23 research facility up from Texas to establish that parents' DNA
24 is similar to their children's DNA, as if 23 And Me and
25 ancestry.com or high school biology class, as if we all missed

1 that. They put all this evidence in to prove that, but then
2 they showed you "me and Tae" and "me and Tae" and "me and Tae"
3 and then they said "Look at this," you know, "something he
4 filled out ten years ago." There are handwriting experts in
5 the world. We got an expert on an Altima is an Altima, but we
6 can't get a handwriting expert? They're fingerprints. We
7 can't pull a fingerprint from that?

8 I also hope it's clear, I talked about them being very
9 thorough, they're putting their best foot forward. They've
10 gone through a lot of evidence and they've called out the one
11 or two pieces that establish their point. And I want to be
12 clear, I'm not accusing them of doing anything wrong, but they
13 are advocates. And so they are -- there's a pull on all the
14 evidence in this case.

15 You've seen a series of witnesses take the stand and they
16 say to them, you know, "What were you instructed to do?" "Oh,
17 we just have to tell the truth. As long as we tell the truth
18 we're okay. We have immunity. Just tell the truth." I promise
19 you there is no means by which Scott Williams or Taeyan
20 Williams can file something with the Court or anybody else and
21 say "Hey, that person lied" and then they face charges. That
22 will never happen. You've heard all the substantive
23 instructions in this case. You're going to get a few more.
24 Listen carefully. You will not hear any method where you can
25 inform them and that person will be prosecuted for not telling

1 the truth. Even the Court cannot begin charges. The only
2 people in this room that can start charges against someone are
3 sitting at that table. And so when they say "All we have to do
4 is tell the truth," no, all they have to do is tell their
5 truth. And again, I want to be clear, I'm not saying that
6 they've purposely put in perjury or anything like that, but
7 they exert pressure and people respond to that pressure.

8 And so you saw Connor Cox. Connor Cox was one of the drug
9 buddies of Taeyan Williams. And he took the stand and he
10 included something he had never said before in all the things,
11 all the times that he's interacted with this case. He said, "I
12 actually went in the house at Bristolwood." Never said that
13 before. And they got up and they said, "Well you were looking
14 at pictures and you remembered from the pictures that" -- and
15 again, that fact doesn't hurt us, but it just shows you that
16 pull. It shows you that pull that they exert. If they keep
17 asking a witness, "Are you sure you don't know Scott Williams?
18 Are you sure you didn't deal with Scott Williams?" These
19 witnesses are likely to say "Actually, yeah, maybe I did."
20 And all of a sudden he's pulled into this.

21 Now to believe what Alfred Musa says, you have to -- you
22 have to believe what you've been told throughout this entire
23 trial about that gun, about that Sig Sauer P228. And their
24 theory is pretty straightforward. Somebody had that gun and
25 they pistol whip Mr. Smothers. And in pistol whipping him they

1 get blood on it. And then counsel today said, "shoved it down
2 his throat," the witness said "put in his mouth." But the
3 point is this pistol whipping got blood and DNA all over the
4 weapon. But then there's only blood on the tip of that weapon
5 because it was wiped off. Kind of like a Sherlock Holmes thing
6 like they wiped off the weapon, but they forgot to wipe out
7 the middle of the weapon. "Aha, that's how we caught you."
8 That's a good theory. The problem is, it's wrong. It's wrong.
9 And I want to be clear to you, you're going to see Exhibit
10 449A and that is not something that some defense expert kicked
11 up, that's from the Maryland State Police.

12 Let's take a look at that. So this is the first lab
13 report completed by the Maryland State Police regarding DNA
14 and you'll see here where it says "Exhibits," Exhibits 8
15 through 12 and Exhibits 14 through 16 were from that Sig Sauer
16 P228 handgun. And you'll see here it talks about where these
17 exhibits come from. From the back of the gun, from the spring
18 recoil tube. That's one of the things I had asked Sergeant
19 Simms about. From the inside of the barrel. From the back of
20 the magazine. And so I want you to pay attention to 14 which
21 is the side of the gun. And then 9 and 10, those are those
22 interior parts of the gun. The last day when Sergeant
23 Simms -- those are the interior parts of the gun. If you
24 recall, Sergeant Simms, one of the last things he did was they
25 put up a picture of a gun where it looked like it was facing

1 right towards you and they said, "circle where you found the
2 blood on the gun" and he circled that end of the gun. And
3 again, that's their theory that "aha" he put it in his mouth,
4 beat him, they didn't wipe that part off. That was their
5 fatal mistake. Again, this was their lab. We didn't do this.

6 Exhibit 9 from spring recoil tube swab, presence of blood
7 negative. There's no blood on that interior part of the gun.
8 Exhibit 10, inside of the barrel. A test for the presence of
9 blood was negative.

10 Now you have access to Exhibit 450. That's a summary that
11 was made by Sergeant Simms. And in that summary you'll see
12 phenolphthalein positive, phenolphthalein positive. And you
13 heard testimony that phenolphthalein is a, quote, "presumptive
14 test for blood." And a few of you might be old enough to
15 remember old TV shows with the police where the police would
16 do a drug bust and there would be some drugs there and
17 somebody would put their finger in there and go, "It's
18 cocaine." That's not a lab test. That's sort of a field test.
19 Phenolphthalein, that's a field test. This is the lab test and
20 the lab test is clear, there was no blood on that gun. You
21 have Exhibit 449A, you can review it. There's no blood
22 anywhere on that gun.

23 Exhibit 14 is the magazine catch, slide catch and
24 decocking levers. Those are the things that I had asked
25 Sergeant Simms to go over. Those things are necessary to

1 operate a gun as a gun. It's the bullet -- the button that
2 allows you to put the magazine back in and the spring that
3 allows you to cock the gun and get it ready to fire.

4 Exhibit 14, very last line. It's about the middle of the
5 page. Scott Williams is excluded as the person who handled
6 that gun. Now there's two things that I would ask you to
7 consider in reviewing this exhibit. Number one, that whole
8 Government theory about "Oh, he was pistol whipped and the
9 blood," that can't be true. It's inconsistent with the
10 evidence, that's number one. Number two, how did his DNA get
11 all over the gun if it's not blood? And particularly, how did
12 it get inside the gun if it's not blood? Now I guess there's
13 some theory that when it went in his mouth it went all the way
14 in his mouth, but I hope you consider that that's farfetched.
15 No gun got put so far in his mouth that the back of the gun
16 which had his DNA on it got DNA on it.

17 Another theory that is consistent with this evidence to
18 include the inside of that gun is that he handled that gun and
19 disassembled that gun. In other words, Noah Smothers had an
20 opportunity to put his hands all over that gun, including on
21 pieces in the inside which would suggest that was Noah
22 Smothers' gun.

23 Now let me be clear, I wasn't there. No one on the
24 defense team was there when the gun was recovered. We don't
25 know. But if we're looking at the evidence, if we're looking

1 at the facts, it's actually more consistent with the evidence
2 in this case that that gun belonged to Noah Smothers than it
3 did to some person who was pistol whipping him and torturing
4 him.

5 Now I said this is a circumstantial case; the house, the
6 car. And it's a weak circumstantial case because plenty of
7 people had access to the house. Connor Cox dealt with Mr.
8 Taeyan Williams, said he knew the house, said he dealt with
9 people related to Taeyan Williams, said very clearly never
10 dealt with Scott Williams.

11 Oscar Diaz dealt with Taeyan Williams. Knows the house,
12 dealt with, quote, "people" or "uncle," never dealt with Scott
13 Williams.

14 Brandon Drummond dealt with Taeyan. Now he did say that
15 one time Scott Williams delivered something to him. And I
16 challenged him and the comeback on direct, he had never said
17 that before, the comeback was "Yeah, but you did, you said you
18 dealt with him" and he said "Yeah, there was something in a
19 text about coming to the house." All of these people testified
20 at one point or the other that they had this drop system at
21 the house, that they would come to the house, pick up drugs or
22 leave money, sometimes outside in a car. So they all are
23 familiar with the house and they may know who Scott Williams
24 is, but they didn't deal with Scott Williams.

25 All right, you heard the charges, the prosecutor ran

1 through them for you. And again, we just underline, Count Two,
2 conspiracy to commit robbery and extortion. What they have
3 proven is that he knew when they talked about those jail
4 calls, he knew what was in his house. He knew when he's saying
5 "Oh, did they look where Lightning," he knew there was drugs
6 in his house. Of course he knew, everybody who lived there
7 knew. Robbery and extortion, kidnapping and murder,
8 conspiracy, there's zero evidence that actually establishes
9 any of that.

10 Now there are a bunch of conspiracy, conspiracy with
11 drugs and this is where it's a tougher case for us. Now the
12 judge will give you this instruction about conspiracy, and
13 this instruction, and this instruction. There's evidence in
14 the record that he possessed drugs and that he sold drugs. But
15 there's not a lot of evidence that he did it with Taeyan. And
16 it is possible that his drug dealing, limited as it is, is not
17 lined up with Taeyan's drug dealing. So please carefully
18 consider the instructions you've seen and all the instructions
19 you hear when you're trying to see what exactly was the
20 agreement that they had. Because there's -- there's pieces in
21 the record and I told you this in the opening statement.
22 There's going to be these little pieces that you have to find.
23 One of those -- this is Exhibit 340 and I'm going to zoom
24 here, hopefully make it a little easier to see. So he's
25 having a text conversation with Connor Cox. Connor Cox says,

1 "Hey, I'm in northern Maryland. I want to buy some drugs. Can
2 I do it?" And they're kind of going back and forth. And
3 finally he says, "I'm at the place on the highway where either
4 I have to decide I'm going to come and see you or I'm going to
5 go somewhere else, so can I come?" His answer, "No, I'm with
6 my dad." That doesn't sound like a drug conspiracy. If these
7 two are co-conspirators in a drug conspiracy, why would it
8 matter "I'm with my dad, I can't do that now"?

9 One of the charges in this case is called 924(c). It's
10 the idea that it is illegal if you're selling drugs to carry a
11 gun, or brandish a gun, or use a gun in furtherance of a drug
12 conspiracy. It is illegal to have those things in furtherance
13 of a drug conspiracy. The Government wants you to treat that
14 as automatic. We know there's drugs in his house, we know
15 there's guns in his house. That's it. We'll kick our feet
16 up, we're done. But that's not the law. The law is in
17 furtherance of a drug conspiracy. Ask yourself, what evidence
18 have you heard throughout this entire trial that even
19 addresses that? What evidence have you heard throughout this
20 entire trial that he brandished a gun at somebody in selling
21 drugs, or carried a gun while selling drugs, or used a gun
22 while selling drugs?

23 Now there's one big piece out here, it's the Alfred Musa
24 where there's the pistol whipping and all of that. Defense
25 submits to you that didn't happen. So outside of that, we know

1 about the three guns that were found in his upstairs. What
2 evidence do you have that he ever used those in any connection
3 to any drug crime? I submit to you you don't have that
4 evidence and the finding on this count should be not guilty.

5 There's a kind of current that's been running through
6 this trial that's popped up in a couple places and it's the
7 idea that I guess the best way to sum it up, Jacob Rayburn
8 sold drugs illegally and he made millions of dollars and now
9 he's got a farm, he's got an organic spa.

10 Mr. Flores Gomez drove his drugs around and he's got
11 potentially a 20-year jail sentence, he's waived just about
12 all of his rights, and he's very likely to be deported. And
13 he did that driving the drugs that made Jacob Rayburn rich.
14 And I guess there could be a concern that what we're asking
15 you to do quietly is please ignore the law and cut them a
16 break because the system is not fair. It couldn't be further
17 from the truth. What we're asking you to do, particularly the
18 team of Scott Williams, is to follow the law. Is to follow the
19 law but please, follow it scrupulously.

20 Historically people like this don't get the full benefit
21 of the doubt that the law entitles them to. They get you
22 close. He had drugs in his house, his car. Look at him, it's
23 enough. In this case, demand more. Demand the actual proof
24 that he broke the law. You'd have to show some agreement
25 before the fact that he had some interest in kidnapping

1 anyone, in robbing or extorting anyone. Demand where is that
2 evidence? Not what the Government has proven here today which
3 is there are these gaps which if you view them suspiciously
4 then "Aha."

5 One of the things the prosecutor just said is there's a
6 12-hour gap where they don't talk and it's in this critical
7 point in the trial. We only have fundamentally a week worth of
8 phone calls. And in that week's worth of phone calls, right up
9 at the beginning, April 4th when we know Mr. Smothers was
10 alive and well, he was coming from New York down to Baltimore,
11 these two don't talk for something like 16 hours. So all of a
12 sudden the fact that they don't talk is proof that they're
13 breaking the law. No, it's not. It's proof that a grown son
14 and his grown father don't talk all that often.

15 You heard about this 2:27 a.m. 2:27 a.m. Pattiann Chaplin
16 called at 2:27 a.m. and that's proof that he wasn't home and
17 that he had somehow disabled or turned off his phone. You have
18 those phone records. You'll see in there that there's a phone
19 record, several phone records where that -- someone makes a
20 call to someone, it's one of those zero, you know, the call
21 doesn't register it, including several between Ms. Chaplin and
22 Scott Williams. Including one -- and including the OG phone.
23 Including one where Scott Williams calls Patti Chaplin and
24 then immediately thereafter Patti Chaplin calls Scott Williams
25 and they're both zero zero calls. How is that possible? The

1 whole point is if it goes to zero it means you've disabled
2 your phone.

3 There's even a call from Scott Williams' line to the OG
4 phone. Is he split personality? So please, understand those
5 records for what they are. They are imperfect records of
6 activity of a machine. There are butt dials. There are people
7 who are in a dead coverage area in their house. Proof that he
8 was there would be proof that he was there. A camera, one of
9 those little diagrams that actually shows he was there
10 dropping off a car, or he was there up in Jessup. The fact
11 that there's space in his schedule where he could be there,
12 that's not proof.

13 Just to be clear, Patti Chaplin didn't say he wasn't at
14 home. They asked her a hypothetical question, "Well, would it
15 make sense to call if he was at home?" "Well no, it wouldn't
16 make sense to call." She didn't say -- she didn't testify that
17 he was not in his house at 2 in the morning.

18 They're very thorough. They looked for a red shirt. They
19 looked for a red hoodie. "Aha, we got you." If they had found
20 that they would be over the moon. You keep the gun, but you
21 get rid of the shirt? Does that make sense? I mean, that's
22 what you'd have to believe, that he said, "I'm going to
23 destroy the shirt, but I'll keep the gun."

24 Again, there's this pull of evidence where they say
25 things that really aren't supported by the facts. Government

1 counsel said "Taeyan Williams wanted to be the sole supplier
2 for all of West Virginia University." There's zero evidence of
3 that. There's zero evidence that there were two suppliers
4 before this and then he wanted to make it one.

5 They put up this what they call the invoice where it's
6 "me, Tae, team, me, Tae, team" and it shows they're in a
7 conspiracy. First of all, as I said earlier, handwriting
8 expert, it's block letters. Anyone could write that. But even
9 if it was him, that would prove the opposite of their point.
10 If there's a "team," then why is there a "me" and why is there
11 a "Tae"? If this is a conspiracy then it wouldn't say "me Tae
12 team" it would just say "team" or it would just say "me" or
13 just say "Tae." It wouldn't say "me Tae team" as if those are
14 three different things. So what they claim proves one thing,
15 actually proves another.

16 Please look closely at -- the Government counsel put up
17 one of her slides and it said, "See how there's the same
18 strains." And on the Government's slide there were -- on the
19 Noah Smothers' Wickr handle slide it had like seven lines. And
20 on the text from Taeyan it had like three lines. So the idea
21 that they're trying to prove that clearly he took everything,
22 there's no proof of that.

23 And please remember, it's not like Noah Smothers was the
24 only person on earth selling these strains. It would be like
25 saying that if someone had Granny Smith apples then you know

1 who they bought them from because he had Granny Smith apples
2 and now he has Granny Smith apples. Everybody in the world
3 sells Granny Smith apples. These are common forms of
4 marijuana.

5 That rental car. Government counsel talked about there
6 was so much blood it even seeped all the way to the bottom of
7 the -- please remember what the evidence was in this case. The
8 car was left. The Kia Sportage was left in this parking lot.
9 Enterprise got wind of it that the transit police officer
10 came. He took pictures of that. And he told you "When I was
11 taking pictures of that I didn't notice this stuff." Then they
12 send it to Enterprise and Enterprise processed it normally.
13 And then they rented it out and a lady who had flown up for a
14 baby shower drove that car for a weekend and she didn't go
15 back to Enterprise and say, "What in the heck? You sent me a
16 bloody crime scene car." She just said it seemed dirty, but
17 she turned it back in to Enterprise. They cleaned it a second
18 time and then the police said "Hey, put a hold on it." So two
19 Enterprise people and a consumer, they had access to that car
20 before all this police processing happened.

21 And so one of the slides you have is you may recall they
22 had a blood spatter expert and he said, "If you look here it's
23 consistent with dragging. Somebody dragged a heavy object
24 across it." That's the body. That's what they're trying to
25 tell you. Except someone cleaned that car, maybe with a vacuum

1 cleaner, at Enterprise, twice. And so maybe those lines aren't
2 someone dragging a heavy object, but the evidence that
3 Enterprise actually follows through and cleans the car as the
4 representative said, bumper to bumper.

5 That drug shipment was 280 pounds. They had 72 pounds.
6 The only proof that it was emptied and it was emptied by them
7 comes not even from Jacob Rayburn, it comes from the people
8 that Jacob Rayburn sent to clear out the storage locker. We're
9 trusting someone we don't know who potentially works for a
10 cartel.

11 The thing I would ask you to take away from this is two
12 things: One, this whole story of pistol whipping is just
13 false. The evidence doesn't support that. Second, you have no
14 way to establish that he joined anything before Noah Smothers
15 disappeared, which means there's no way to prove that he was
16 involved in a robbery or extortion, there's no way to prove
17 that he was involved in a conspiracy or actual kidnapping at
18 all.

19 But I also want you to consider -- as I said earlier,
20 we're in the poking holes business. Just consider some things.
21 The search warrant is for Tae and his uncle or uncles. Tae and
22 his uncles. Those are the people we're looking for. You have
23 an exhibit, Exhibit 340A. If you would look through that
24 exhibit and the last thing I'm going to do is put a note page
25 up there where it directs you exactly to it. Look at the

1 tenor of the comments. Basically there's a drug deal going on
2 and Connor Cox is supposed to make a payment at Walmart and
3 it's just going slow. The lady messes up the name and she puts
4 "Fox" instead of "Cox." There's a person who it's in text
5 messages, they lose their cool in text messages. If we're
6 looking for somebody who might be working for Taeyan and
7 something goes sideways, somebody loses their temper and
8 something goes wrong, it's not Scott Williams.

9 You heard testimony that Noah Smothers at one point
10 snorted an 8-ball of cocaine in 20 to 25 minutes. We had Task
11 Force Officer Bush, to just remind you he's the police officer
12 who had kind of the Mohawk hair cut. And he said an 8-ball is
13 usually where you consider that's a dealer. If you're carrying
14 an 8-ball, that's a dealer. And he said a heavy user can use
15 an 8-ball like in a day. Noah Smothers snorted an 8-ball of
16 cocaine in front of Connor Cox in 20 to 25 minutes. The idea
17 that we can completely discount some medical emergency, we
18 can't.

19 You've heard all about these encrypted phones. And
20 please just take a minute to consider all the things we'll
21 never know about who else they were dealing with. Jacob
22 Rayburn, he minimized. He testified on his direct that "I sell
23 drugs." I said, "Where do you sell drugs?" And he said "In
24 Maryland." And these tables, we were all leaning forward like
25 "And? And?" He didn't say anything. And then while he

1 started testifying he talked about in Pennsylvania, and West
2 Virginia, and New York, and North Carolina. And these people
3 were connected to a lot of people in a very bad business.

4 Remember what he said about this courier service, he
5 would put a trash bag filled with drugs in his car and he
6 would drive it and park it. And then he'd go get a sandwich.
7 And when he came back it was gone. And four days later, poof,
8 it was in New Jersey. It's like from a movie. Who does that?

9 And what I'm trying to get up to is is if this was a
10 7-Eleven robbery and we said "Yeah, but what if a cartel did
11 it," that's not reasonable doubt. But in this case where one
12 of the people they dealt with was EQ, a gangster who had been
13 robbed of \$4 million or had \$4 million seized weeks earlier,
14 what can you do with \$4 million? There are people who do hits
15 for \$10,000, for \$1,000. One shipment in this case was
16 \$60,000.

17 What do we know about whether Jacob Rayburn and Noah
18 Smothers, Noah Smothers had the cocaine problem, maybe made
19 the mistake and somebody said, "That guy has got to go." What
20 do we know about whether that happened or didn't? I'd submit
21 to you you know nothing because it's hidden in encrypted
22 phones that Noah Smothers -- I mean, Jacob Rayburn he said as
23 soon as this happened, he broke his encrypted phone and threw
24 it in the water.

25 There's so much we'll never know. Everything they tell

1 you about this case is the peek-a-boo that Jacob Rayburn chose
2 to share with them. So what's not there? That laptop. The
3 laptop that the Smothers family worked with Jacob Rayburn to
4 get it to them. He told you, "I couldn't get into the laptop."
5 Now first of all, the encryption on that laptop was so amazing
6 that a Maryland state employee was like, "It's the highlight
7 of my career. I broke through this super encrypted laptop."
8 And if you remember, the password he finally discovered, it
9 was "Noah." We know Jacob Rayburn set up the laptop. He's the
10 one who bought all those phones, he set up that encrypted
11 laptop. So that alone should tell you he absolutely could get
12 into the laptop. But number two, the password was "Noah."
13 He's like, "I just couldn't figure it out." What was on that
14 laptop that was so important he flew across the country just
15 to make sure it was in his hands.

16 I promised you notes. Please don't take my word for it.
17 Please review. You're going to have all this evidence. Please
18 review this evidence. And when you consider it and when you
19 consider the law, please consider it the way the law was
20 intended for everyone in this country, just that Scott
21 Williams and Taeyan Williams get the benefit of the doubt.
22 And if you do that, if you give them the benefit of the doubt,
23 no special favors, no -- just the benefit of the doubt, Count
24 Two, Count Three, Count Four, Count Five and Count Eight
25 there's no way, there's no way you can find them guilty.

1 **THE COURT:** Mr. Hawks, we're down to two minutes.

2 **MR. HAWKS:** Okay. Members of the jury, I appreciate
3 your service and your kind attention throughout this process.
4 Thank you.

5 **THE COURT:** Okay, ladies and gentlemen, thank you
6 very much for your close attention. I promised you a break
7 after the first two arguments and we will do that now. Again,
8 keep an open mind. Don't discuss the case among yourselves.
9 You've heard a lot of information. You haven't heard from
10 Taeyan Williams, you haven't heard rebuttal. You're not in
11 deliberations so again, just enjoy the break. We'll see you
12 back here in 15 minutes. Thank you.

13 **(Jury exited the courtroom at 11:04 a.m.)**

14 **THE COURT:** We'll see everyone in 15 minutes. Mr.
15 Guillaume, you can set up as best you would like.

16 **(Recess was taken from 11:04 to 11:21 a.m.)**

17 **THE COURT:** Before we call in the jury I just wanted
18 to report that based on the earlier discussion and wanting to
19 make sure we do this absolutely as best we can, I did elect to
20 make some technical edits to the verdict form. We'll hand out
21 copies, one for each team. Basically I'm trying to track what
22 I think is both the language in the jury instructions and also
23 what's the best way to characterize the Count Five and the
24 statute. So now both in the header and in questions 9 and 9A,
25 10 and 10A, it reads: "Possessing, using, carrying, and

1 brandishing a firearm in furtherance of or during and in
2 relation to a crime of violence or a drug trafficking crime"
3 is the way I described the count. And no other changes, but I
4 just wanted to let everybody know that. And we'll give you
5 copies before the jury deliberates.

6 Okay, I think we're ready for the jury then. We'll just
7 wait for them to come in.

8 **(Jury reentered the courtroom at 11:23 a.m.)**

9 **THE COURT:** Thank you, everyone. Please be seated.
10 Welcome back, ladies and gentlemen. We're going to continue
11 with the closing arguments. We'll next hear from Mr. Guillaume
12 who is counsel for Mr. Taeyan Williams.

13 **MR. GUILLAUME:** Thank you, Your Honor. Good morning,
14 ladies and gentlemen. Before I get started, I want to just
15 thank you for your time and for your service in this case. I
16 know it's been a long three weeks and I've watched you all
17 throughout the trial take diligent notes, pay attention to all
18 the witnesses and I just ask that you -- now we're at the
19 final part of this case, the final argument from the defense
20 in this case, that you give that same attention that you've
21 been giving throughout the case. I really appreciate it, my
22 client would appreciate it and my co-counsel, Christopher
23 Nieto truly appreciates all the time that you put in thus far.
24 I also would like to address something a bit of a --

25 **THE COURT:** Hold on a second. I'm sorry.

1 **MR. GUILLAUME:** --a unique circumstance that our
2 team finds ourselves in, Taeyan Williams and my co-counsel,
3 that you just heard the argument of Mr. Scott Williams. And
4 I'll just say, I'll put it like this: Normally I'm used to
5 rebutting what the prosecution says in their opening
6 statements and in their arguments, I'm going to do this in
7 this case as well, but it's disappointing, I'll just leave it
8 at that, that that type of argument was put forward. I intend
9 to argue from the evidence as I told you in my opening
10 statements and you'll be hearing things that are in evidence,
11 exhibits that are in evidence, and my analysis of those
12 exhibits. And I'm going to ask you to find my client not
13 guilty now, and at the conclusion of this case.

14 Ladies and gentlemen, as you may recall, as I just
15 alluded to a moment ago, my opening statement I made certain
16 promises to you. One, that I would argue from the evidence.
17 But more importantly, that my client, Taeyan Williams, had
18 nothing to do with the disappearance of Mr. Noah Smothers. And
19 what's even more acute, what's more obvious in this moment now
20 is that Mr. Taeyan Williams needs to be judged individually
21 from his co-defendant; his father, Scott Williams.

22 There's a jury instruction that you have been given to
23 tell you just that, that the judgment of guilt must be based
24 on the evidence against the particular person, against Taeyan
25 Williams.

1 I also told you and it's no secret from the time you
2 first heard my voice, from the time I first met you that
3 Taeyan Williams was a customer of Noah Smothers, not a rival.
4 He was friendly with him. He was not a rival. There was no
5 animosity there. And as I said a moment ago and I will
6 continue to say, I plan to argue from the evidence in the
7 case, the evidence in the case. Evidence are exhibits,
8 evidence are testimony, things that you have been presented
9 that hopefully you remember.

10 As Judge Chuang alluded to in the beginning part of this
11 trial, there's no transcript that you're going to be given.
12 There's no reading back of what witnesses say. So I'm going to
13 reference some witness testimony and I hope that you remember
14 it the same way I do because I took pretty scrupulous notes
15 and I hope even if you didn't take the notes, that you
16 remember that this was said in court.

17 The prosecution on the other hand in their opening
18 statement they made three very specific claims which they've
19 kind of alluded to here and I want to focus on those
20 throughout the course of my argument. But I want to remind you
21 as to what they are.

22 First, that there was a conflict about money between my
23 client and Noah Smothers. There was not. And we'll get into
24 that; two, that Mr. Taeyan Williams lives or has a bedroom in
25 the basement of Bristolwood Court. He does not. He doesn't

1 live there. He doesn't have a bedroom there; and lastly, that
2 location data shows you that Mr. Smothers is in the area of
3 the residence at Bristolwood between 1 and 3 p.m. They
4 forecasted all of this for you in the beginning of their
5 trial. They've argued some of it here in closing. The only
6 point that I sort of agree with is the last one and we're
7 going to get into that in a moment.

8 But before we do, I want to remind you that the
9 prosecution, the Government, United States Government has the
10 absolute burden of proof in this case, in any case. Defendants
11 charged in criminal cases are not required to prove their
12 innocence. They're not required to call witnesses. The
13 Constitution is very clear. You've received an instruction on
14 that. So I know because we're all human beings, some people
15 will wonder, well, why didn't so and so put on witnesses or
16 put on a case, et cetera et cetera. That is not for you to
17 determine. The law has been given to you and you must follow
18 the law.

19 We sat here yesterday for a very long time and listened
20 to the law. It was dense, it was extensive, but it's
21 important. It's fundamental. It's a part of our justice system
22 that you -- the judge read to you so he knows you hear,
23 listen, and then will have with you when you make these
24 decisions, these very important decisions, the law in your
25 hands, literally in your hands to use and apply that law. In

1 law school, I was in law school a while ago, that's the first
2 thing you learn. You apply the law to the facts. In this
3 context if the law and the facts don't match up which they
4 don't, then you must find my client, Taeyan Williams, not
5 guilty.

6 There's also another instruction that talks about
7 inferences, about looking at the evidence from a common sense
8 point of view. And sometimes that's easy to do in certain
9 cases. Other times it's not. This is a case that has I'm sure
10 presented an unfamiliar world for many of you. Me too, and I
11 do this for a living. You've heard about encrypted phones,
12 you've heard about large drug shipments across the country.
13 Many of you probably I'm going to be safe to assume have never
14 heard this stuff before outside of some fiction, a movie, or
15 TV show or a book, but this is not fiction. It's real life.
16 And it may be hard for you to relate to some of these things,
17 but I just ask you again, to be hypertechnical in your
18 application of the law and the facts.

19 And there are times when you say, you know, you're going
20 to have to, of course, use your common sense on certain
21 matters, but it is an unfamiliar world for all of us. So when
22 that happens, all we have is the law. And the law is what the
23 law is.

24 My client is charged in a variety of charges. Not all of
25 the charges on the indictment, but he's charged in these

1 different counts. He's charged with being a member of a drug
2 conspiracy; he's charged with possessing with intent to
3 distribute certain narcotics; he's charged with certain gun
4 crimes; he's charged with conspiracy and the actual robbery of
5 Mr. Noah Smothers; and most importantly, most importantly,
6 he's charged in the kidnapping with the death resulting of Mr.
7 Noah Smothers.

8 I'm going to review each of these charges and explain and
9 apply the law to you. I'm going to reference testimony and
10 exhibits that you've heard when I make my argument. My
11 argument is going to be based in what you've heard in this
12 case. I'm not bringing in outside conspiracy theories, I'm
13 talking about what you have been given these last three weeks
14 to make your decision.

15 I'm going to go a little bit out of order, though. I'm
16 going to start first with the Count Five which is the use of a
17 firearm for a crime of violence or a drug crime. The firearm,
18 there's been lots of talk about the firearms in this case so I
19 want to be clear as to which firearm we're talking about.
20 We're talking about the firearm found at Bristolwood which is
21 the Sig Sauer 9 millimeter handgun. This is the only relevant
22 gun for purposes of this count that you need to consider. And
23 again, you have the instructions. So I'm not going to repeat
24 the instructions. I'm going to give you like I guess the
25 condensed version of what is required. But what you are going

1 to do, of course, is go back and look at the actual law, apply
2 it for yourselves, make your own determinations. For purposes
3 of my discussion here today, I'm going to explain to you that
4 basically the Government must prove beyond a reasonable doubt
5 that that gun, that gun was used in one of these three things:
6 The drug conspiracy, the alleged robbery, and the alleged
7 kidnapping. Okay?

8 I'm going to start off with a common sense argument.
9 There has been no picture, text, video whatsoever of my client
10 with that gun or any gun whatsoever. You may remember a couple
11 days ago Sergeant Simms testified that there were over 50,000
12 pictures in my client's phone. If they had a picture of a gun,
13 you would have seen a picture of a gun.

14 Of course there's also no testimony from any witness that
15 my client -- there's a number of witnesses that know my client
16 that have testified, some of whom he's known a long time, some
17 of whom he's known a shorter amount of time. But they were
18 all consistent about one thing: No one ever saw him with a
19 gun ever at any point for recreation or otherwise, lawfully or
20 unlawfully. Okay? So there's no testimony about my client
21 with a gun. He doesn't own guns, he doesn't possess guns, he
22 doesn't touch guns. And this particular gun that's found at
23 Bristolwood doesn't have any sort of physical link to him. His
24 DNA is not on there, his fingerprints are not on there. Why?
25 It's not his.

1 So there's a lot of discussion about where my client
2 lives and I think that this has been clearly established
3 through the evidence in the case. Again, the evidence is the
4 testimony that you've heard. Starting first with Oscar Diaz.
5 He testified and there's no reason to not believe him, that he
6 visited my client, his friend in Morgantown, West Virginia at
7 his apartment. He, in fact, mentioned that it was a very nice
8 apartment. He said he went there four or five times and they
9 partied together.

10 Okay. Now we know from Brandon Drummond, his other
11 friend, that -- well, they're all from Howard County,
12 Maryland. All three went to Oakland Mills High School.
13 That's how they know each other. Columbia, Maryland I think
14 most of you know is in Howard County, Maryland. My client's
15 mother lives in Columbia, Maryland. Brandon Drummond confirmed
16 that when he testified. His father lives in Laurel, Maryland.
17 But you don't have to believe me, Brandon Drummond, or Oscar
18 Diaz. Look at the exhibit that was given to you, that was
19 presented that's in front of you right now with -- my client's
20 Maryland driving record which shows an address in Columbia,
21 Maryland. He's never lived at Bristolwood. He doesn't live at
22 Bristolwood. He didn't live there in 2018, he never lived
23 there. That's plain and simple. So ergo anything in the house
24 is not his.

25 But we take it one step further. There's a lot of talk

1 about the basement at Bristolwood. I have two exhibits here on
2 this next slide which you may remember the first of which
3 showed some women's shoes. We know from testimony that
4 Pattiann Chaplin, a woman, lives in that house. She testified
5 that when asked by Mr. Moomau, were the shoes hers, she said
6 "No," they weren't. Okay? But let's take it one step farther,
7 okay? We know Pattiann Chaplin testified that Taeyan does not
8 live at Bristolwood. She does with two small children that she
9 shares with Scott Williams, but she said Taeyan stays --
10 "visits, but doesn't stay there." That's an exact quote. I
11 hope you remember that quote. "Visits, but doesn't stay
12 there." And "visit" could mean, okay, spending the night
13 every once in a while, of course, at your parent's house.
14 That's not totally out of the realm of possibility, but
15 spending the night or spending time does not -- is not the
16 same as living with someone. Especially someone who has their
17 own apartment in another state who is a grown man, albeit a
18 young man in his twenties at the time in 2018.

19 Now we know that the police come to the house on June
20 6th. They kick the door in. There's a whole SWAT team that
21 comes in and searches the house. My client is not there that
22 day. Someone by the name of Ricardo Carty was there who is
23 visiting. So that tells me, again, using the common sense
24 approach is that that room in the basement is used by whoever
25 is in town, whoever visits, not exclusively my client. It

1 could be anyone, friend, family member that could be in that
2 particular basement.

3 But again, looking at the other photo in the exhibit --
4 and also, before you do that, just -- it also could include
5 that person's lady friend, girlfriend, whomever. Someone who
6 which we have reason why Shelly, Pattiann Chaplin says, "Well,
7 those women shoes aren't mine." And as a matter of fact, she
8 also testified that she did not even know that Mr. Carty was
9 in the house. Which to me means that there is obviously things
10 going on in her house that she doesn't know about, especially
11 when someone could just come in and out. It's a room that sees
12 a lot of foot traffic as they say.

13 But look no further than the picture that the Government
14 presented of the basement when they found it. Now in June
15 there's no -- there's no warning that the law enforcement gave
16 as to when they were coming. It was a total surprise. It's
17 6:00 in the morning. There's young kids and a couple sleeping
18 in the house. The door is busted in. But look in the closet.
19 Look. Nothing is there. It's a pretty empty closet. It's not
20 lived in. My client's clothes aren't there. There's no shoes,
21 shirts, anything that would indicate that he lives there. No
22 personal effects. Even if you believe he lives there and he
23 spent the night somewhere else, the majority of his things
24 would still be there. There's nothing to indicate that he
25 lives there.

1 And for me, what's most indicative of when someone lives
2 in a residence is that they would receive mail there or
3 something. No mail has been presented, nothing of the sort to
4 show that he lives there. So he doesn't live at Bristolwood.
5 Whatever is in Bristolwood doesn't belong to him. So as far as
6 going to Count Five, the handgun charge in this case, that
7 should be enough proof beyond a reasonable doubt that there's
8 no connection with that gun, my client, no physical evidence,
9 no picture of him with it, no indication that he lives there
10 at any time, to find him not guilty of that charge. And you
11 can apply that to all three crimes of which it can apply to.
12 And I'll get into that more so here in a second.

13 There's also a theory that's been floated by the
14 Government about aiding and abetting. In other words, you not
15 doing something yourself -- and this is my layman's talk right
16 now, not the legal definition -- but helping someone do it, to
17 create it. Now the most -- and I put a little quote here to
18 kind of summarize it and you'll have it in your instructions,
19 but the most important part of this whole quote is that the
20 person who is aiding and abetting, in this case my client,
21 must have advanced knowledge that he's doing so. Okay? They
22 haven't proven their case under that theory either.

23 Now referencing -- going to the next count that I want to
24 talk about, Count Six which is the possession with intent to
25 distribute, to be clear, this count refers to the items found

1 on June 6th of 2018. And there's a lot of talk about this
2 ledger that was found during that search. A couple things
3 about the ledger. One, my client never possessed this ledger,
4 didn't write on this ledger. There has been no argument that
5 he ever did. So whatever someone else writes on a ledger and
6 tries to attribute it to my client, it doesn't mean that he
7 knew about it or doesn't mean that he had any knowledge
8 whatsoever or that he even benefited from it. But you could
9 say "Well, why is a person with the name Tae" -- and my
10 client's name is Taeyan -- "on the ledger in the house with
11 this marijuana?" It's a good question. The answer is, I don't
12 know the answer, but I'm just going to use my common sense. I
13 would assume that somebody wrote it there, right, but I want
14 you look closely at the ledger and there's been lots of talk
15 and you may not remember all these different strains of
16 marijuana: Cush, Sours, OG, all these kind of different names
17 that have been thrown out there. But on this ledger what's
18 attributed to him is the Lemon Ice and the Blue Goo. There's
19 not one phone text message, not one screenshot, anything
20 referencing these strains of marijuana and my client. In other
21 words, he doesn't buy it, he doesn't sell it, he doesn't use
22 it as far as we know.

23 If you look when he's arrested in West Virginia and you
24 see the video, I think you saw that in the Government's
25 presentation, you had Mr. Nice, you have other things but you

1 don't have these things. These things are not in West
2 Virginia. They don't -- there's nothing to indicate that my
3 client has them, that either actually has them or you believe
4 that they've proven it circumstantially. They just haven't. So
5 these counts reference these items, but the items that are in
6 the home, they don't belong to him. It's just that simple. He
7 doesn't live there. He didn't possess them. They're not his.

8 Now there's been talk both on the prosecution's
9 presentation and in co-defendant's presentation about this
10 call in West Virginia. Let's be clear about one thing. When
11 Mr. Taeyan Williams is under arrest in Virginia, he was not
12 charged with murder, kidnapping, anything of the sort.

13 We established through Sergeant Simms and it was I think
14 yesterday or the day before, that at this time of this call,
15 there was a pending drug charge. I told you when I first met
16 you that my client supported himself by selling drugs. We
17 never ran from that because we knew what the evidence was in
18 the case. It would be very silly of me to get up here and say
19 that my client has nothing to do with drugs, I don't know
20 what's going on. You would laugh at me after you had been here
21 for three weeks and I said that.

22 So clearly, if you look at -- if you go back and listen
23 to this call, if it's something that you desire to do in your
24 deliberation, you'll hear certain key things that my client
25 says. First of all, the first impression that you get is that

1 he's not built for jail, one, because he says "a group of
2 racists jumped me" and he's really upset and he's calling his
3 dad saying "You need to get me out of here. These racists in
4 West Virginia are jumping me," et cetera, et cetera. So the
5 two of them are arguing, they're going back and forth. It
6 would also be silly of me to argue to you that my client
7 didn't know that his dad may sell drugs. Of course he knew.
8 And the reverse is also true. But knowing someone sells drugs
9 and selling drugs with someone are two different things. And
10 the law distinguishes between the two, so that's important.

11 But as you may recall -- and this is not a funny case.
12 It's a serious case as all cases are, but this is especially
13 serious. There was a moment in that call when he -- when Mr.
14 Scott Williams curses at -- uses a Jamaican term, a derogatory
15 term because his son is not understanding what he's saying.
16 It's clear to me listening to this call, again, using my
17 common sense, that my client is clueless as to what his father
18 is talking about in that moment, other than my client being
19 worried about the fact that there is ample evidence on his
20 phone which this picture is taken right from his phone, with
21 drug activity.

22 Now we know and I'll talk about this throughout, that
23 Wickr is an application that doesn't save communications. They
24 disappear. But my client for whatever reason screenshotted. I
25 think everyone knows here what a screenshot is, when you save

1 it, take a picture on your phone of the screen at the time and
2 there's lots of screenshots, but only because he took them
3 himself, presumably and there's evidence of drugs. He's in
4 jail on a drug case. There have been drugs found in West
5 Virginia in a place where he was, where they can try to tie it
6 to him. He's worried about it. And one of the things in the
7 call you may not have heard it because Mr. Scott Williams has
8 a Jamaican accent, is that he says something about "it's a
9 misdemeanor" towards the end of the call. And my client
10 repeats -- it's not in the transcript of the call, it's not in
11 the captions, but what I hear and you can tell me if you want
12 to listen to it, he says, "It's a misdemeanor." Like
13 basically what are you worried about? It's a misdemeanor.
14 And let's be clear that the drug business, the drug amounts in
15 this case are not misdemeanors. My client knows that. He knows
16 as he sits there that, you know, they find this stuff I might
17 be cooked on this drug stuff. But there's also no conversation
18 about a dead person, a dead body, are you going to go --
19 because his father is out of jail. So there's no conversation
20 of "You need to go to the place where so and so is buried, you
21 know." And we'll talk about the Government's theory in a
22 little bit, but there's no talk about that. "We need to -- we
23 need to go and take care of that," nothing. It's like, the
24 suggestion is that quite frankly the father is saying to him
25 "You need to wipe your phone" and my client is like "I'm not

1 doing that" because Frank, the lawyer, said don't do it. Go
2 back and listen. That's what they talking about. They talking
3 about drugs. Okay? He's in jail for drugs and he's not really
4 built for it, my client. And his dad is like, no big deal,
5 you're being a baby -- basically, I'm paraphrasing. He didn't
6 say that exactly, he used a vulgar term that I'm not going to
7 repeat. But the bottom line is that this call is much ado
8 about nothing. It has nothing to do with Noah Smothers'
9 disappearance.

10 And yes, as far as the investigator calling and the
11 Government saying "Well, you know, he didn't talk to this
12 person." As you remember, Mr. Nieto I believe had that
13 cross-examination and he established that a stranger, to my
14 client, calls at -- early, in the early morning hours and says
15 "Hey, I'm talking about this person that you had a pretty big
16 drug business with. What do you know about it?" Who wouldn't
17 hang up? Again, using your common sense. He knows he's been
18 doing something illegal. "He" being my client. So he doesn't
19 know if this is the police calling or who it is calling him.
20 And at some point -- and he's also not stupid because he's --
21 other people in the community are talking about Noah Smothers
22 not being around. So he's very well aware of that. It doesn't
23 mean that he participated in his disappearance or he killed
24 him in some way. That's not what it means.

25 And for us -- and again, the Government in its

1 presentation had lots of text messages in which they are
2 interpreting the intent and the motive of certain people. I
3 say to you, ladies and gentlemen, that's a very dangerous game
4 to play. One cannot interpret unless it says "I hate this
5 person, I'm going to kill this person," do this. Unless it's
6 abundantly clear as to what is being said, to say there was
7 some sort of a rivalry or anything else through a select
8 interpretation of text messages, it just doesn't get you there
9 and it's a dangerous game to play. It's not proof beyond a
10 reasonable doubt, which is what's required. But I'll continue.

11 The law also talks about mere knowledge, right? So the
12 thing I just finished mentioning was that of course Taeyan
13 knows what his dad is doing and vice versa, but it doesn't
14 mean that they're necessarily doing it together. You make your
15 own decisions on the evidence based on that, but just as a
16 general proposition, this can be used for anything, including
17 a kidnapping, okay? So if I know you did a crime, no matter
18 how heinous the crime is, as long as I didn't participate in
19 it that is not a crime. This is in your instructions. This
20 could be applied across the board as a general legal
21 principle, it could be applied across the board to anything,
22 any crime.

23 The Government's case as it was alluded to by Mr. Hawks a
24 moment ago, you heard from a lot of witnesses, some of whom
25 were more memorable than others. I think everybody remembers

1 the witness about the Nissan Altima and how long that took,
2 but in my mind from our position, it comes down to these
3 witnesses. It comes down to two sets, civilian witnesses and
4 law enforcement witnesses that are important in what they
5 bring to pull this Government theory together.

6 To be clear, the Government believes as you've heard that
7 there was a debt owed, that my client didn't want to pay the
8 debt, and that he decided to just go ahead and kill Mr.
9 Smothers as opposed to paying that debt. And that essentially,
10 it's a very straightforward theory, but it doesn't add up and
11 there's a lot of things in the background in this case that
12 are relevant and you're going to hear me talk about some of
13 these folks and their testimony and how even with the
14 testimony of the Government witnesses, it doesn't always add
15 up to make the complete circle of -- to get to their theory.

16 So I'll start off with Mr. Rayburn who is a very
17 memorable witness to me. Mr. Rayburn we know was business
18 partners with Mr. Smothers. They shipped marijuana across the
19 country. He's now taken that money presumably and he's the
20 owner of a marijuana farm. He's the owner of a wellness spa
21 and he's received immunity everywhere. And that is relevant
22 and I'll explain why as you'll see in my presentation. He's
23 never had to answer for any criminal activity whatsoever and
24 that's very relevant in a case like this. Because it's not
25 only that he just did that, he did lots of other things as

1 this case was going on, some of which were talked about by Mr.
2 Hawks.

3 Before we talk about him too much, we know that he was
4 partners with Mr. Smothers and Mr. Smothers and he had
5 multiple storage facilities. And he's testified, the
6 testimony was in New York, in Maryland, and they were looking
7 to expand to other places. That typical shipments, typical
8 shipments just between the two of them were around 100 pounds
9 a shipment. And we know that the price of a pound for Mr.
10 Connor Cox testified and I think Mr. Rayburn may have touched
11 on it as well, but these numbers were from Connor Cox that it
12 would be from the low end, \$1,100 a pound to \$3,500 on the
13 higher end and Mr. Cox testified that he liked the higher end,
14 \$3,500 variety.

15 And we know that Mr. Smothers had business according to
16 Mr. Cox, in University of Alabama, University of West
17 Virginia, Gettysburg College, West Virginia University and
18 Penn State University, at least. And those were his clients.
19 Also he dealt with people in Maryland that you've heard
20 collectively referred to as "the Jamaicans" and there's at
21 least one other potential big client. I think Rayburn
22 testified to that as well. That's a lot of business. And
23 you've got the idea of the scope of the operation. And Mr. Cox
24 testified that in fact there was so much cash that they used
25 to have to use money counters and vacuum seal the cash because

1 there was so much of it. And Mr. Cox testified -- this is
2 something that's extremely important, that when Mr. Smothers
3 would come to West Virginia University he would have between
4 50 to 150 pounds every time he came that he saw him. And he
5 said he saw him approximately ten times I believe was his
6 testimony.

7 So as far as the business structure is concerned, we know
8 that those 100-pound shipments were going every two weeks or
9 twice a month or sometimes once a month. That's what Mr.
10 Rayburn testified to. We know that the two, Rayburn and
11 Smothers, communicated with each other exclusively on Wickr
12 which is an app which we all learned in this case is a super
13 secure, at least it was at the time, method of communication
14 that can make voice calls, as well as send messages. And
15 nothing is safe, it doesn't use cell site technology. So you
16 can't -- it doesn't implicate the towers and the messages
17 disappear after a while. And this is all very relevant in this
18 case because we know not only did the two of them use Wickr,
19 my client used it as well. And Connor Cox used it as well was
20 the testimony. And I believe Mr. Diaz may have said he used it
21 as well. I'm not 100 percent sure about Diaz. But you
22 understand my point that there's a lot of information that we
23 don't know, that we won't know as far as potential suspects,
24 who is dealing with whom. What debt is owed to whom which is
25 really the important part. That goes to the heart of the

1 Government's theory, okay?

2 And as far as -- before I get to that I actually want to
3 just say too that Mr. Smothers, which is important to note for
4 purposes of what I want to tell you, as Mr. Rayburn said, Mr.
5 Rayburn sounded like he was just a stockbroker at times, not
6 like an illicit drug dealer. He talked about supply in demand,
7 consumer side. Mr. Smothers is on the consumer side. He would
8 send back information about what clients like, what strains
9 that they liked. And this was a regular ongoing thing so they
10 could provide the best quality for what their clients wanted.
11 And also that the two of them were privy to one another's debt
12 sheets. They had an ongoing list.

13 And this next example is -- this is from Exhibit 486.
14 This is just one example of one spreadsheet that was saved.
15 Remember, many of them weren't saved. If you just look at the
16 two numbers at the bottom, it equals almost \$2 million. That's
17 one transaction. This is -- this was and Mr. Rayburn
18 confirmed, I mean, routinely the transactions would be from
19 \$200,000, \$300,000. Mr. Rayburn had clients outside of Mr.
20 Smothers as well. So when we say "millions of dollars," it is
21 no exaggeration. And it is all relevant. And we're not just
22 saying, "Oh, look at Mr. Rayburn. He makes millions of
23 dollars. It's not fair," that's not it at all. Again, it's
24 setting the stage to show you who this person is and how you
25 should view their credibility as a witness, right?

1 What do we know about Jacob Rayburn? We know -- this is
2 a man who is supposed to be friends with Noah Smothers. He was
3 friends with his brother, he's met his parents. But did he go
4 to the police? No, he did not. Not only did he not go to the
5 police, he's never to date revealed the source of his
6 marijuana. And when challenged on cross-examination, he even
7 admitted that he sold marijuana after Mr. Smothers lost
8 communication with him. Right? Not "I gave it up, I went to
9 the police, I did everything. I didn't care what happened to
10 me, I wanted to help my friend." No, "I kept selling." He kept
11 selling. And we know that he didn't contact the police.

12 But not only that, is that the law enforcement in
13 Maryland, Sergeant Simms and others had to go to Santa Monica,
14 California approximately -- well, it's across the country,
15 six-hour flight to sit with him in his lawyer's office where
16 he basically told them nothing and said hey, other than say "I
17 know him, we did business together, but that's it." He didn't
18 reveal the source of supply which may have been very relevant,
19 which still may be relevant to all of this, but he also says
20 -- he doesn't say, rather, what he's done at that point.

21 And we know that Mr. Rayburn in the days and weeks after
22 Mr. Smothers isn't heard from, he travels to New York. He gets
23 on a plane and travels from California to New York. And he
24 gets possession of Noah Smothers' laptop. How he knew Noah
25 Smothers has a laptop is a question you should ask and why

1 he's concerned about it is another question you should ask.
2 Takes possession of it along with drugs from Mr. Smothers'
3 home in Pennsylvania, along with money which is -- and it's a
4 little murky as to who gave him the money and to how he got it
5 which I'll talk about it in a second, but this is all relevant
6 to who he is as a witness.

7 But leaving that aside for a moment, we know that Mr.
8 Rayburn was compelled to testify here in this courthouse when
9 I asked him in front of the grand jury and he did not say to
10 that grand jury even with a letter of immunity, because he had
11 met with law enforcement prior to that, he still didn't reveal
12 the truth about what he did. The only reason, the only reason
13 we know that things happened in the home of Mr. Smothers, Noah
14 Smothers after all this is going on is because his father, Mr.
15 Roger Smothers testified that he, in fact, gave access to that
16 home, five years later. And he said, I remember very
17 memorable, he says, "I shouldn't have done it, but I would do
18 it again because I thought I was helping my son." Okay? And
19 be that as it may, leaving that aside for a moment, Mr.
20 Rayburn knew what he did and he never revealed that
21 information to officers, to anyone. Why? It is extremely
22 relevant in assessing his credibility and assessing this case
23 as a whole.

24 Again, with respect to that issue, we've heard from Cesar
25 Flores Gomez who as Mr. Hawks said, faces deportation to a

1 country he hasn't lived since he was nine years old and who
2 was the driver. He got a salary. I think he said about
3 \$200,000 a year to be the driver and be the manager in New
4 York, the operations of this operation, this drug delivery
5 service. He was able to tell you who EQ is in that ledger. He
6 said EQ is his words, "Armenian Mafia," Mafioso or Mafia that
7 he met one time in Southern California. Okay. Mr. Smothers --
8 excuse me, Mr. Rayburn when asked that question, he says that
9 he opined that EQ meant it's some sort of a number, SKU
10 number. And then when later asked in testimony says, "I don't
11 know." Clearly he knows. Clearly he doesn't want to share it,
12 but there's no way that a person of Mr. Flores Gomez's status
13 on the food chain in that operation would know that
14 information and Rayburn wouldn't know that information. Okay?

15 Mr. Rayburn also testified that he sent the drug delivery
16 service to go into the home to get the laptop and the other
17 things. Mr. Smothers, Roger Smothers testified that he just
18 unlocked the door. He didn't interact with anybody. I believe
19 both of them. But what I don't believe is the fact that Mr.
20 Rayburn is saying that he said the drug delivery service
21 because Mr. Flores Gomez testified that he wouldn't have done
22 that, that's basically not good business to do that. They
23 didn't do that.

24 So who, in fact, went into this home? Who took these
25 items and what did they do with this information in the early

1 days of Mr. Smothers' disappearance? All relevant
2 information.

3 We know that the only way that law enforcement is drawn
4 to -- at least that's what has been presented here -- is that
5 Mr. Cox puts Mr. Rayburn on to my client. He says "Hey, this
6 is a guy, he deals with them. Reach out to him." And as I
7 recall from my asking the questions, my client didn't say
8 "Don't give him the information." He spoke with Mr. Rayburn.
9 And the Government tries to flip it and say, "He wants to be
10 the supplier." So the person, Rayburn, is calling and
11 identifying himself as the source of supply. Okay? There's no
12 secret about that. And my client is like "Well" -- according
13 to Rayburn my client says, "Well, if he's not around, do you
14 want to deal with me?" Who wouldn't say that in his position
15 at that time? That's just a normal thing to say.

16 But taking it one step further, as far as, you know,
17 Rayburn is concerned, he's got that information now,
18 presumably, my client, because he's been contacted by Rayburn
19 on Wickr, again which we have no record of, but my client
20 never calls him back. There's no -- I asked him, we said, "Did
21 he ever contact you again to follow up on that?" He did not.
22 So if he really wanted to be the supplier for whatever or get
23 -- he had the connection. He never contacted him before or
24 after those series -- there was a series of conversations.
25 Those series of conversations.

1 Again, Mr. Flores Gomez, I just talked about him, but I
2 think he's a very important witness because he's got criminal
3 exposure. He pled guilty to a federal crime. He may be
4 deported. He's testified honestly about his role, about what
5 he did and the fact that he didn't come face-to-face with a
6 lot of people. But the most important thing about all his
7 testimony is that he didn't go in that locker the second time
8 around and he didn't go in that house at all.

9 So Mr. Cox is another one who basically -- Mr. Cox is
10 involved in the same business as my client and Mr. Smothers,
11 but on a smaller scale. He's basically my client's connection
12 to his particular fraternity in West Virginia. The most
13 important thing about Mr. Cox to me, again, there are no
14 transcripts and I don't think the Government is going to get
15 up here and dispute me because I know because he said it four
16 times. He said the last time he saw him was in February of
17 2018. And I don't know if you remember that, but I asked him.
18 I said, so in February of 2018 -- he gives this story about
19 how he saw Noah and that was this debt, we're talking about
20 April, 2018 not February, 2018. Right? So either Mr. Cox is
21 lying or he's talking about something else that's totally not
22 relevant to what we're talking about here.

23 Another thing about Cox is the reason the Government even
24 has this theory about a debt, it comes from him. Mr. Rayburn
25 when asked by me, "Were you aware of any debt that he owed any

1 particular person, any client?" He says, "No." That was very
2 clear, "No." He says "No." He says, "We typically would run
3 debts between each other, but I wasn't aware of any debt."
4 This is a man who is his business partner. They are in
5 lockstep. They share spreadsheets, they share information.
6 And if you don't think they share information, why is Mr.
7 Rayburn flying across the country to get a laptop? They share
8 information. They are in business together. He is not aware of
9 any big debt.

10 And we'll talk about the debt in a moment, but the
11 biggest amount of debt that's alleged is \$30,000 by my client
12 to Noah Smothers, not even saying that that's true. But even
13 if that was true, you just saw a \$1.8 million transaction.
14 You've heard testimony from Rayburn that they basically wrote
15 off the \$300,000 of this shipment. There's no way Mr. Smothers
16 was sweating to the point of being really worried about
17 \$30,000. It's just not -- it just doesn't make any sense.

18 But also, my thing is that Mr. Cox testified that he
19 wasn't privy to the business dealings between my client and
20 Mr. Smothers. He testified, Cox testified that my client would
21 get all the good stuff. I don't know if you remember that,
22 and he would be left with the bad stuff. He didn't use those
23 words, but the marijuana that -- basically the leftovers is
24 what he was left with.

25 And again, Mr. Cox is the person that provides Jacob

1 Rayburn this information that starts this whole -- the focus
2 on my client. And yes, my client was involved in the business
3 with Connor Cox. Again, we're not running from that. That's
4 clear.

5 So I want to just focus your attention to the date of
6 April 6, 2018. We know that there's a big shipment coming in.
7 Ms. Grossi said in her presentation that they knew this was
8 coming in, "they" being my client and others, and it was going
9 to be a big one. There's no evidence that he knew anything of
10 the size of the shipment other than it was normal.

11 But I want to go ahead and just tell you a big secret
12 which is not a big secret. My client bought marijuana from
13 Noah Smothers in April in the time that he was here in
14 Maryland. That's not a secret. That's clearly obvious. But it
15 doesn't mean that he had anything to do with his
16 disappearance. So remember, and the evidence supports what I'm
17 saying. The evidence supports what I'm saying.

18 So again, there's this testimony about a debt from Mr.
19 Cox is the only one, and Mr. Rayburn confirmed that he
20 received a text on an encrypted phone through Wickr from Mr.
21 Smothers that "The meeting went well." He said he's "Going to
22 see the Jamaicans," and then he said, "The meeting went well."
23 And then he says, "I'm going to see other people and I'll get
24 back to you." And then he testified, this is in his testimony,
25 that Mr. Rayburn said on April the 7th he received a second

1 text on the encrypted phone from Mr. Smothers which said,
2 "Family issue has me down." That's an exact quote best as I
3 can remember from the testimony. Right?

4 So again, we know that using an encrypted phone you are
5 not going to appear in any cell tower. So there's going to be
6 no record of that. No call, no log of that. But Rayburn
7 confirmed these texts. And he confirmed that -- and I asked
8 him, I said representing the consumer side of things, I said
9 "Well, if you were to receive a text that the Jamaican liked
10 the Sours" would that be normal? He said "Yes" because they
11 would have these conversations. So while Rayburn didn't
12 necessarily remember the communication -- he remembered the
13 communication, but the fact that he said "sours," he still
14 confirmed that that was normal in their course of business,
15 that he would be talking about that.

16 So we know that on this day Mr. Williams, my client,
17 Taeyan Williams, is a customer of Mr. Smothers. We know -- Mr.
18 Nieto did a wonderful job with Sergeant Simms establishing the
19 fact that this Google searching and this Red Roof Inn stuff,
20 it just doesn't add up because he's not from Maryland. It
21 would make sense that he's Googling where the Red Roof Inn is.
22 He wasn't. We know that there were restaurants there of the
23 type, of the type that he liked. There was a Salvadorian
24 restaurant there, there's also a Dunkin' Donuts there. The
25 Dunkin' Donuts gift card is in his car and Sergeant Simms said

1 that he doesn't check to see whether that was used there or
2 investigate those restaurants, the very same restaurants, the
3 type of restaurants he's looking for to see if he frequented
4 those restaurants.

5 And again, this, this text that Rayburn receives on the
6 encrypted phone is that the meeting went well. And there is no
7 dispute, none whatsoever from any side that at 1:52 p.m. --
8 and Ms. Grossi referenced it in her opening -- Mr. Smothers
9 makes a modification to a note of which I will show you in a
10 moment. And the note -- and you see it in this exhibit. The
11 note begins with "Tae gave \$5,900 plus four WGS." The first
12 thing I'll say is that "gave" is the past tense which means
13 that that's what someone gave them as opposed to what someone
14 is going to give, but I will get to that in a moment.

15 But at 1:52 p.m. we know Mr. Smothers writes that note.
16 So take that piece of evidence, take the piece of evidence
17 that Rayburn says he gets a text after the meeting and
18 everything went well, and take that as evidence that my client
19 met with Mr. Smothers, got what he needed to get, and went his
20 separate way. It's the most simple, plausible, logical
21 explanation.

22 But don't believe me. Let's look at what Oscar Diaz says.
23 Okay? We know that Oscar Diaz, childhood friend of my client,
24 also was selling drugs with my client, right? He references
25 in his testimony "Sour Diesel, OG, Cush" -- again, not brands

1 that are on that list by his name. He testified that he
2 dropped my client off at Tysons Corner. This is supported by
3 the Government evidence of the cell phone tracking towers. My
4 client does not have an encrypted phone. He uses Wickr, but he
5 does not have an encrypted phone. So every time he uses the
6 phone for whatever purpose, a call, whatnot, it's going to be
7 going off of a cell tower, connected to a cell tower.

8 There's no testimony from Mr. Diaz that the two of them
9 went by, stopped by, talked about, passed an EZ Storage. If
10 you look at the evidence, you'll see the Government just made
11 an argument that he was looking for -- that he was writing
12 things that had to do with the storage at that time. He's in
13 the car with Oscar Diaz and he's going to Tysons Corner. It's
14 as simple as that. Okay?

15 Again, Brandon Drummond is another person and again, all
16 this is supported by the evidence. All of this. The times,
17 the locations, it's supported by the evidence and the evidence
18 is when you use a particular device, the phone call, it's
19 going to be connecting.

20 Brandon Drummond, my client sees him that same day, later
21 in the day, at night. So he's with Oscar Diaz for a few
22 hours, they smoke marijuana in his home. He then drives a very
23 long roundabout way. And Mr. Moomau asked him, "Why did you
24 drive this way?" He gave the explanation as to why they drove
25 that way because he didn't want to go this way and that way or

1 whatever, but we know that my client's phone is in Tysons
2 Corner. And from Tysons he goes to College Park. But again,
3 what Brandon Drummond says is that Taeyan -- he doesn't
4 remember the day. It's a long time ago. He says he testified
5 truthfully, "I don't remember the day but it wouldn't be
6 uncommon for Taeyan to come and hang out at the house." He
7 said that a lot of the brothers at the house like to buy drugs
8 and Taeyan had just received drugs. He had just received them.
9 Okay? So infer what you will from that.

10 And as a matter of fact, I'll show you in a minute here,
11 there's an Uber ride. Thank goodness that we have Uber. Thank
12 goodness these record exist. Because imagine if they didn't.
13 Imagine if these record didn't exist, the Government would say
14 "Well, they met at 1:52 and that's when everything went
15 wrong." But we know that my client is traveling through Uber.
16 He takes two trips, one to Oscar's house in Columbia and then
17 another from Tysons Corner to College Park because my client
18 doesn't have a car. He doesn't drive. Okay? These are
19 supported by the Uber records.

20 So even though Brandon doesn't remember it, the records
21 support the fact that he was there, that my client was at the
22 Theta Chi house. And Sergeant Simms confirmed that the
23 location on the Uber record is, in fact, right next to the
24 Theta Chi fraternity house in College Park. And he never
25 stops, he never takes an Uber to the EZ Storage or anything

1 like that. Again, he leaves and that's it. He leaves Mr.
2 Smothers and that's it.

3 For the Government's theory of kidnapping, it's very,
4 very specific. And Mr. Hawks, I agree with one thing he said.
5 It comes 100 percent from Mr. Musa. There's no other way that
6 they can get to kidnapping as opposed to anything else other
7 than that particular story.

8 So I'm not going to go through all of Mr. Musa's misdeeds
9 because I think that's been done to death, but I do think it's
10 relevant that I remind you that this is a person who doesn't
11 just find himself in jail on a particular case and happens to
12 come across this information. This is a person who is facing,
13 now facing for his crimes, his new crime and he's serving a
14 ten-year sentence. He committed a crime while he was
15 incarcerated in federal prison, facing a potential exposure of
16 32 years. 32 years on top of the 10 that he's already serving.

17 And Mr. Nieto, again, did a masterful job of establishing
18 all of these factors that just lead up to -- you see when all
19 of Mr. Musa 's appeals, post convictions, all these things run
20 out, that he is then, then and only then, he reaches out to
21 the prosecutor. He accuses the prosecution of lying,
22 fabricating evidence and all this stuff, but then he reaches
23 out to the prosecution and says, "Hey, I got some information.
24 And I want" -- and the language was very flowery and he's no
25 dummy, for sure. And at that point he says that he gets into

1 the story, the story which he tells you here in court.

2 And just to kind of recap the story, he claims there's a
3 debt. He claims that there's -- that the persons can't get
4 into the storage facility. And that Taeyan Williams lures him
5 to the Red Roof Inn to -- with the promise of a potential new
6 client or a client of some sort. He testifies that they
7 assault him inside -- that three people assault him inside of
8 the hotel at the Red Roof Inn, that at that point he's walked
9 outside and forced -- at gunpoint, and forced to get into the
10 trunk of his own car. The story, even if you believe it, it
11 doesn't add up with the evidence that's been presented to you.
12 There's been no cell site technology, anything, anything,
13 nothing, nothing can corroborate this story. So then you just
14 have to start using your common sense that -- in daytime,
15 because we assume it's daytime because that's when my client
16 and Mr. Smothers' phones are right next to each other at about
17 1:30 in the afternoon that all of this happens, that they can
18 -- and apparently Mr. Smothers was very tall. He had a size 15
19 shoe, he was a big guy. And there was even testimony that Mr.
20 Scott Williams allegedly wanted to bring a third person in
21 because he was so big, that all this was able to happen and
22 nobody sees it. And it's like okay, sometimes I guess that
23 could happen, but come on. I mean, with all the other stuff
24 that Musa has going on in the background, with all the stuff
25 going on in this case -- and again, forget about the witness

1 credibility issues for a minute. The records don't support
2 it. They just don't. And then he gets this version of someone
3 is dropped off at the house and he didn't go to the storage
4 locker. Taeyan Williams, we know where he is. He's at his
5 friend's house. He's at Tysons Corner. He's at -- on a Friday
6 night, he goes to a fraternity house. They're partying at the
7 fraternity house. And the Government has made a big deal about
8 the fact that there's no activity on Taeyan Williams' phone
9 from midnight basically, 11:57 p.m. of April the 6th until the
10 next afternoon around 12:30, maybe closer to 1:00. Well, first
11 of all we know that he's at a fraternity house, one, on a
12 Friday night. He's been smoking marijuana with Oscar Diaz,
13 copious amounts, apparently. And we know that Brandon liked to
14 smoke marijuana as well and do drugs. So it's not beyond the
15 realm of possibility that he's passed out, right? He's
16 20-something years old. He's passed out from -- normally most
17 people are not using their phones from midnight to at least
18 the next morning. And maybe he slept in. Maybe he's partied,
19 who knows? We don't know. We can't guess. There's a lot of
20 guessing. But if they're going to guess, I'm going to guess,
21 right? But that's not unusual in and of itself.

22 And we also know that there are -- he doesn't just use --
23 I think Brandon Drummond testified that they used to
24 communicate via Snapchat, via Wickr. Like he's not -- even if
25 he is using his phone, it's not necessarily through

1 traditional means. If you go back, you have his phone records,
2 they're in evidence. Go back and look. Look at his phone
3 usage. You'll see that there's not a lot of consistency of
4 long conversations with anybody which would imply that he's
5 using other means to communicate via text or whatever.

6 So as far as the law enforcement witnesses are concerned
7 in this case, there's a couple of folks that are pretty
8 important. Starting with Officer -- Task Force Officer Bush.
9 He testified in great detail. You may remember me asking him
10 questions about the Sinaloa cartel and Cartel de Jalisco Nueva
11 Generacion. Both of those are Mexican drug cartels. And he
12 gave very detailed information about their abilities to ship
13 marijuana in large quantities. And Mr. Hawks kind of touched
14 on it, but basically we have a lot of players in the
15 background here who are not 9 to 5 guys. And providing
16 copious, large amounts of drugs is something that a cartel can
17 do. And his testimony is that violence is a method of
18 enforcement. And again, I don't want to run away with
19 conspiracy theories, but this is not a conspiracy theory case.
20 These are actual facts. So you have to take yourself -- this
21 is their witness and they presented them. And this is the
22 question that he was asked and answered. So he must be
23 relevant for something.

24 The other witness was the height witness, Chris Iber.
25 And I give Mr. Crawley credit for the great question that he

1 asked which was it's impossible to determine someone's
2 identity by their height, so really why are we here? The
3 Government -- I mean, a lot of people in the world are 5'10",
4 5'11", 5'9". To argue that my client was present at that place
5 at that time is just not consistent. This doesn't prove it.
6 Put it like that.

7 And the clothing, Mr. Nieto established again,
8 masterfully, that the clothing that he wore, that Mr. Williams
9 wore in the photos that were in the Government's exhibit, the
10 hooded sweatshirt and the red shirt, they're not seen in this
11 video. Sergeant Simms definitively said "No, that's not it."
12 So to think otherwise, it makes you wonder why those pictures
13 were even in there. But we established that fact.

14 Again, Sergeant Simms testified about certain steps he
15 took in this investigation. And this is a challenging case so
16 I'm not -- I'm not here to beat up on law enforcement, but I
17 have an obligation to protect my client and to represent my
18 client to the best of my ability, me and my trial partner's
19 ability. And there were just certain steps that were not
20 taken in this case that could have been, or were not taken
21 because they were impossible such as this world of encrypted
22 communications that existed that there's just so little
23 evidence of by design.

24 We know that in addition to the encrypted phone, the
25 Wickr, that Mr. Smothers had a Hide.me account which even

1 further insulates you from detection by whomever. There is
2 absolutely no surveillance footage of my client in Laurel at
3 the Red Roof Inn. There's lots of different missing pieces of
4 which I've talked about that were not or could not be
5 addressed in this case.

6 **THE COURT:** Mr. Guillaume, you're down to two
7 minutes.

8 **MR. GUILLAUME:** Thank you. The last thing I would
9 like to present to you, this exhibit. The Government has
10 presented Exhibit 174 which is the alleged ledger of the debt
11 between Mr. Smothers and my client. If you look closely at the
12 ledger, the Government stops right around where it's 11,000 on
13 the document. If you continue to go down further -- and again,
14 I went to law school. I didn't go to math school. But if you
15 continue to go down further, you can see that there's large
16 amounts that are deducted and subtracted from this ledger
17 which eventually gets you to a point of about \$5,000. The
18 Government is focused on a \$30,000 debt that they say was
19 owed. But if you go down and you plug these numbers into that
20 debt and just do it in the back, you'll get to that number and
21 it will be consistent with basically with the re-up that he
22 received, that my client received from Mr. Smothers on April
23 the 6th. It would indicate that the debt was paid at that
24 point and he got more drugs and that is now the new debt. We
25 write notes from top to bottom. April 6, 2018 that note was

1 written by Mr. Noah Smothers at 1:52 p.m. that shows you why
2 would my client give him all that money and all this just to
3 kill him? It makes no sense. It didn't happen.

4 Ladies and gentlemen, thank you for your time and for
5 your service. I ask you to find Mr. Taeyan Williams not guilty
6 of these charges. Thank you again for your time and service.

7 **THE COURT:** Thank you, Mr. Guillaume. As I
8 mentioned, ladies and gentlemen, the Government has a brief
9 opportunity for rebuttal. I think Mr. Hanlon is going to do
10 that. Again, you can stretch while we're switching counsel and
11 then we can jump right into that and that will be the last
12 part of the closing arguments.

13 **MR. HANLON:** I'm ready any time, Your Honor.

14 **THE COURT:** Go ahead.

15 **MR. HANLON:** Ladies and gentlemen, good afternoon.
16 Good afternoon, ladies and gentlemen. The last question my
17 colleague asked before sitting down was why would --

18 **THE COURT:** Mr. Hanlon, I'm sorry. Move it up here.
19 I think it's not quite where we can hear you as well as we'd
20 like.

21 **MR. HANLON:** Testing. All right, ladies and
22 gentlemen. So the last thing that my colleague asked before
23 sitting down was why would anyone want to kill Noah Smothers
24 if the debt had been paid off, if they had just given him a
25 bunch of money or done a large drug deal? Well, that would be

1 the reason to kill Noah Smothers, because they had just given
2 him a lot of money, were interested in getting it back and not
3 having to pay for the drugs that they had done business on
4 that day, to say nothing of what might be left in the storage
5 locker.

6 That is what this case is about, ladies and gentlemen. It
7 is about the decision that the defendants made to cut Noah
8 Smothers out of their business, to get what he had on hand and
9 to get a hold of his suppliers. And that's what the evidence
10 has shown.

11 During the course of this morning we've heard a lot of
12 discussion from the lawyers, forgive me -- beginning with the
13 nature of the business between Scott Williams and Taeyan
14 Williams. We've heard a lot about what the nature of the
15 business was, whether they were in business together. Ladies
16 and gentlemen, you don't have to look just to the evidence
17 that came from the witnesses who testified and the
18 prosecution's case. The defendants themselves had names for
19 how they carried on this business. They referred to it as a
20 "team." This was the word of Scott Williams in the notes he
21 made to the ledger that was found on his mattress, in his
22 bedroom, in his house. "Me, Tae, team." This is how they saw
23 each other. They were a team when it was profitable to be.

24 You've heard a great deal about this phone call that was
25 played, recorded call in which Scott Williams and Taeyan

1 Williams talked about what was going on, about their concerns
2 about the investigation. Again, you heard Scott Williams'
3 description of what this organization was like. It was a team.
4 Taeyan Williams says, during the same call, "It's as simple as
5 that. I ain't trying to argue with you all no more. We need
6 to be more of a team right now. You all got these n-words
7 splitting themselves, fighting one another over shit we don't
8 even know yet." They were a team when it was profitable, when
9 it made sense, they're a team. When it makes sense to point
10 fingers at each other, they separate.

11 And the attempt to separate, ladies and gentlemen, is
12 what we heard throughout the defenses' closings today.
13 Separating the counts, separating the conduct, separating the
14 defendants. In looking at the evidence, resist the temptation
15 to take one piece of evidence, put it on the scale, look at it
16 whether it's enough and then take it away. That's what the
17 defense has done, but that's not how you should view the
18 evidence during your deliberations. Look at all of it in its
19 totality. How does the evidence fit together? How does one
20 piece of evidence corroborate another piece of evidence? That
21 is how the guilt of the defendants has been proven in this
22 case, by the totality of the evidence. Witness testimony,
23 electronic records, their texts with each other, their
24 connects with their distributor customers and ultimately all
25 of the events that happened on April 6th and April 7th and

1 April 8th of 2018.

2 There are two things or three things rather, that have
3 not been mentioned since Ms. Grossi talked to you earlier.
4 And these particular electronic communications, not witnesses
5 or anything like that, these three themes are three pieces of
6 information that cannot be explained away.

7 Number one at 7:59 p.m. from the laptop seized in the
8 Bristolwood Court house, at a time when the evidence shows
9 that Scott Williams was at that house, Pattiann Chaplin is not
10 there, Taeyan Williams is not there, and this is the laptop
11 found next to his bed during the June 6th search. We have a
12 search, 7:59 p.m. on April 6th, for "EZ Storage Jessup." So we
13 know what the defendants are thinking about. We know what
14 they're planning based on that laptop search.

15 At 7:08 p.m., a little while earlier, Taeyan Williams at
16 a time when his cell site data puts him in the vicinity of the
17 Jessup storage facility, makes a note to his phone of the EZ
18 Storage address on Washington Boulevard. Again, we know what
19 they're thinking, we know what they're doing.

20 At 11:57 p.m. on the same night, Taeyan Williams makes a
21 note to his phone with the code information. Now you've heard
22 about the passcodes and the information here about how Noah
23 Smothers had information in his iCloud account about how he
24 kept his passcodes and how many of those passcodes were used
25 on jerseys used in high school. 11:57 p.m. that evening,

1 Taeyan Williams is making a note to himself, 15-21-42.

2 15-21-42. Taeyan Williams is making that note, along with a
3 kiphone, a kiphone address. This is the defendants in
4 possession of the electronic information about Noah Smothers,
5 in possession of the address information about EZ Storage, and
6 in possession of passcode information about Noah Smothers at a
7 time when they're also talking to each other on the phone.

8 This shows what the defendants are doing, it shows what
9 they're thinking about, and ultimately it shows the motive and
10 the plan for what they were doing that day. And none of this
11 is evidence that is consistent with any of the defense
12 theories you've heard today such as the notion that some sort
13 of California mystery person did this, or that there's some
14 situation that there was some situation that Noah Smothers may
15 have had some sort of a medical emergency. That's completely
16 contrary to the evidence in this case.

17 What the evidence shows is that Scott Williams and Taeyan
18 Williams were working as a team to take over Noah Smothers'
19 business, to cut him out, to take over the storage unit, to
20 get a hold of whatever data they could get on his phones and
21 then seize the marijuana that was actually in that storage
22 unit. And that, of course, is what we see over the course of
23 the next three days. Three separate visits from a Nissan
24 Altima rented to Scott Williams, on video. The Nissan Altima
25 dumping the Kia Sportage, on video. This is what we see

1 playing out over the course of the next several days.

2 There was discussion over the fact that Jacob Rayburn
3 testified about communications with Noah Smothers' encrypted
4 phone either late on April 6th and into April 7th. And that
5 was his testimony, ladies and gentlemen. But consider who is
6 in possession of Noah Smothers' encrypted cell phone at that
7 time.

8 Noah Smothers is gone. No one has ever seen or heard from
9 him since April 6th. And on the evening of April 6th we have
10 the defendant, Taeyan Williams, making notes about passcodes
11 and kiphone information for Noah Smothers. The defendants are
12 in possession of that phone. The defendants are in possession
13 of the business. And for all intents and purposes they are in
14 possession of Noah Smothers' identity at that point in time.
15 If there are any communications going on it is the defendants,
16 Taeyan Williams in particular, in possession of that encrypted
17 cell phone. And that's exactly what they had planned. That is
18 exactly what the team had attempted to do.

19 You also heard nothing, ladies and gentlemen, on the
20 subject of "team" about the money box. The \$200,000 in cash
21 taken from the Bristolwood home on June 6th. Now there were
22 \$300,000 worth of marijuana in the storage unit, according to
23 the testimony, about 200 pounds. There's about 70, 72 pounds
24 found in the Bristolwood house during the search warrant.
25 There's about \$200,000 cash in the search warrant and there's

1 about six weeks in between the disappearance of Noah Smothers
2 and the search of the house. Maybe closer to two months. My
3 math is a little off. \$200,000 less marijuana that was
4 actually seized, but a huge portion of the load still
5 remaining. The defendants had two months, April 6th, 7th and
6 8th until June 6th to move as much of that marijuana as they
7 could. That was the whole purpose of the robbery. And they had
8 \$200,000 in cash to show for it.

9 There's a suggestion and some discussion about whether or
10 not Taeyan Williams lived at the Bristolwood house. He
11 certainly had a bedroom there. He certainly stayed there. His
12 birth certificate was there. Marijuana and the tools of the
13 marijuana distributor were found inside that downstairs
14 bedroom. And you heard witness testimony about Taeyan
15 Williams arranging drug deals at the house, deliveries of
16 money, drugs, things like that. And most importantly, ladies
17 and gentlemen, because it's clear that Taeyan Williams spent
18 time in West Virginia, that's where most of his customer base
19 was, but it's also clear that he spent time at the Bristolwood
20 house. It was a family home. His Uber records link him to the
21 house. But most importantly, his cell site records, his Uber
22 records, and all of the evidence in the case, including his
23 notes to himself on his cell phone, show that he was at
24 Bristolwood and the EZ Storage facility during the critical
25 moments of April 6th and 7th, 2018. That is what matters with

1 respect to Taeyan Williams and that residence. And the tools
2 of the robbery, the fruits of the conspiracy, the team's
3 benefits were still at Bristolwood at that time. Marijuana
4 that had labeling consistent with the business that we've
5 heard about, the firearm used to torture and beat Noah
6 Smothers, I'm going to talk about that in a moment. The
7 business of the conspiracy, its commodities, its products were
8 in that house.

9 Taeyan Williams may not have been there all the time.
10 There's not a shred of evidence that he was ever at this
11 Columbia house that he put on his driver's license. But the
12 fruits of his business with his father, the team's products
13 were certainly at Bristolwood. And Taeyan Williams was at
14 Bristolwood and EZ Storage and visiting his customers during
15 the critical days of April 6th, 7th and 8th of 2018.

16 Let's discuss the DNA evidence. Mr. Hawks talked about
17 the DNA evidence from the gun. There's one point I want to
18 make. His focus was on Exhibits 9, 10 and 14 if memory serves.
19 One thing that did not come up, ladies and gentlemen, was
20 Exhibit 28 which was one of the swabs taken from the gun. And
21 by that I mean DNA Exhibit 28. It was not in the report that
22 you saw earlier today, but it is one of the swabs that came
23 from the Sig Sauer. And this is Exhibit 449B. Exhibit 28,
24 swab of stain from inner slide. The DNA profile from one minor
25 contributor was obtained. The DNA profile from Noah Smothers'

1 deduced known is consistent with this DNA profile. Law
2 enforcement elimination for Scott Williams and Taeyan Williams
3 are excluded from the DNA profile.

4 So this is one exhibit you didn't hear about earlier
5 today, Exhibit 28 from the Sig Sauer. The DNA of Noah Smothers
6 is found there, not the defendants. The Government doesn't
7 suggest otherwise.

8 The inner slide of the weapon, Exhibit 450. This is the
9 Sig Sauer, ladies and gentlemen. The actual one. You see this
10 piece of the barrel and there's some inner workings inside the
11 weapon. Here we see where the barrel is moving in and out when
12 it's in operation. This is the weapon as it's partially being
13 sort of disassembled for the swabs. There was talk about this
14 part earlier today and this part earlier today. You've heard
15 about it. I'm focusing on this part right here, inside the
16 sliding barrel as it moves in and out of the weapon, inside
17 the inner workings of the weapon. It is from there -- and we
18 see it here in this photo, all of this is from Exhibit 450 I
19 believe, the slide is taken out and we see the interior part
20 of the slide. This is where Exhibit 28 came from, the DNA of
21 Noah Smothers. Blood is indicated on this portion of the
22 weapon. Blood and the DNA of Noah Smothers well inside this
23 weapon. It has to be practically disassembled in order to get
24 there.

25 Now it's perfectly reasonable that non-blood DNA would

1 have been found on the weapon in various parts. When you beat
2 someone with a firearm, skin cells, saliva, other pieces of
3 DNA end up getting on the weapon. So it's not surprising that
4 there would be other DNA on the weapon. But have no doubt,
5 the DNA of Noah Smothers was found inside that gun, well
6 inside the gun and blood was indicated in that portion of the
7 gun. Suggestion that this is Noah Smothers' gun is
8 contradicted by all of the evidence in this case. This was the
9 gun used to kidnap, rob, and ultimately terrorize Noah
10 Smothers to force him to give up the information, and the
11 marijuana, and the storage unit access that the defendants
12 were interested in. The DNA evidence supports that.

13 Alfred Musa's testimony is corroborated on point, after
14 point, after point, ladies and gentlemen, but there is almost
15 nothing he said in this case that is not backed up by DNA
16 evidence, forensic evidence, video evidence, storage records,
17 and everything else that you've seen in this case. Particular
18 pieces of information such as whether or not he would have
19 known that there was a Red Roof Inn, the particular manner in
20 which the gun was used to terrorize Noah Smothers adds to the
21 detail of his information and is beyond what you would have
22 expected to hear from casual conversations about allegations.
23 But even without Alfred Musa's testimony, the evidence in this
24 case, the forensics including what I just showed you, is proof
25 beyond a reasonable doubt as to what happened. That is, again,

1 in addition to the text message and electronic notes
2 information that also shows what the defendants were doing and
3 were planning.

4 **THE COURT:** One minute, Mr. Hanlon.

5 **MR. HANLON:** Thank you, Your Honor. The jail calls
6 you heard, ladies and gentlemen, it's clear that the
7 defendants are worried. It's clear that they were reminding
8 each other they want to be a team, and it's clear that they
9 are upset with each other for what each one of them perceives
10 as a mistake that they've made. But what is absolutely clear
11 is that Scott Williams and Taeyan Williams were not worried
12 about a marijuana case being put on them. They were worried
13 about a private investigator who had called. That private
14 investigator called about Noah Smothers. They were worried
15 about contacts between them and Noah Smothers. They were
16 worried about being caught on something a lot bigger than a
17 misdemeanor marijuana case.

18 Remember, Taeyan Williams had had some of his drugs
19 stolen in January of 2018 just a few months earlier and he
20 kept right on with the business. Marijuana was not their
21 concern. Their concern was a murder case being built on them
22 and their concern was distancing themselves from Noah
23 Smothers. They had buried Noah Smothers, but their panic as
24 heard during that jail call was that the evidence they had not
25 buried was coming back on them. And they had to be a team in

1 order to beat it. And that is ultimately what this case is
2 about and why, ladies and gentlemen, you should find the
3 defendants guilty. Thank you.

4 **THE COURT:** Thank you.

5 **MR. HANLON:** Thank you, Your Honor.

6 **THE COURT:** Okay, ladies and gentlemen, we've heard
7 all of the closing arguments. I did promise you one last jury
8 instruction, however, before we get to the deliberations.

9 So members of the jury, thank you for your attention
10 today during my instructions on the law or yesterday during my
11 instructions on the law and today during the closing
12 arguments. We've now reached the time for you to begin your
13 deliberations in this case. My warnings not to discuss the
14 case among yourselves will no longer apply once you begin your
15 deliberations. At that time it will be your job to discuss the
16 case and to reach a verdict. However, my preliminary
17 instructions that you are not to discuss the case with family
18 members, friends, coworkers, the media, or anyone else and
19 that you are not to do any independent research about this
20 case still applies during your deliberations.

21 Specifically, during your deliberations you should not
22 discuss the case with or provide any information about the
23 case to anyone other than your fellow jurors. This includes
24 discussing the case in person, in writing, by phone, or by any
25 electronic means, via text messaging, e-mail, Facebook,

1 LinkedIn, Twitter, blogging, internet chatroom or any other
2 website. You may not talk to anyone on the phone or in person
3 or correspond with anyone or communicate by electronic means
4 about this case with anyone except your fellow jurors and then
5 only while you're in the jury room conducting deliberations.

6 If you are asked or approached in any way about your jury
7 service or anything about this case you should respond that
8 you've been ordered by the judge not to discuss the matter and
9 you should report the contact to the Court as soon as
10 possible.

11 You should not try to access any information about this
12 case or do research on any issue that arose during the trial
13 from any outside source, including dictionaries, reference
14 books, or anything on the internet. Information that you may
15 find on the internet or in a printed reference might be
16 incorrect or incomplete. In our court system it is important
17 that you not be influenced by anything -- anyone or anything
18 outside the courtroom. Your sworn duty is to decide this case
19 solely and wholly on the evidence that was presented to you in
20 this courtroom.

21 And when you retire to the jury room, your first order of
22 business will be to select one member of the jury to serve as
23 your foreperson. The foreperson will sign all communications
24 with the Court, including the verdict form and be your
25 spokesperson here in court. If you need to communicate with me

1 during your deliberations, such communication must be made in
2 writing in a note signed by your foreperson or one or more
3 members of the jury. You should give the note to the bailiff
4 who is the security officer who will be sitting outside the
5 jury room. I will respond to any notes as promptly as possible
6 either in writing or by having you return to the courtroom so
7 I can speak to you in person. I usually must consult with the
8 attorneys before responding and because that may take some
9 time, you should continue to deliberate as you await a
10 response.

11 No member of the jury should ever attempt to communicate
12 with me by any means other than a signed writing. I will never
13 communicate with any member of the jury on any subject
14 relating to the merits of the case other than in writing or
15 orally here in open court.

16 You are never to reveal to any person and must not
17 include in any note to me how the jury stands, numerically or
18 otherwise until after you have reached a unanimous verdict.

19 You will note from the oath that the bailiff -- to be
20 taken by the bailiff that he too, as well as all other
21 persons, is forbidden to communicate in any way or manner with
22 any members of the jury on any subject relating to the merits
23 of the case.

24 Now as I explained earlier, the Government must prove
25 each of the essential elements of the charged crimes beyond a

1 reasonable doubt. Your function during your deliberations is
2 to weigh the evidence in the case and determine whether or not
3 one or both defendants is guilty solely on the basis of such
4 evidence. If the Government succeeds in meeting its burden,
5 your verdict should be guilty. If it fails, it should be not
6 guilty.

7 To report a verdict, it must be unanimous. Each of you as
8 a juror is entitled to your opinion. You should, however,
9 exchange views with your fellow jurors. That is the very
10 purpose of jury deliberations, to discuss and consider the
11 evidence, to listen to the arguments of fellow jurors, and to
12 present your individual views.

13 In reaching a unanimous verdict, it is your duty as
14 jurors to consult with one another and to deliberate with a
15 view to reaching an agreement if you can do so without
16 violence to individual judgment. Each of you must decide the
17 case for yourself, but do so only after an impartial
18 consideration of the evidence in the case with your fellow
19 jurors.

20 In the course of your deliberations, do not hesitate to
21 reexamine your own views and change your opinion if you are
22 convinced that it is erroneous. But, if after carefully
23 considering all the evidence and the arguments of your fellow
24 jurors you have a conscientious view that differs from the
25 others, do not surrender your honest conviction solely because

1 of the opinion of your fellow jurors, because you are
2 outnumbered, or for the mere purpose of returning a verdict.
3 Your final vote must reflect your conscientious conviction as
4 to how the issue should be decided. Your verdict, whether
5 guilty or not guilty, must be unanimous, reflecting the
6 considered judgment of each and every one of you.

7 You will return your verdict by marking answers to the
8 written questions in the verdict form which will be provided
9 to you. Each answer is to be marked in the space provided
10 after each question. It is your duty to answer each of the
11 questions in accordance with the evidence in the case. And
12 please follow the instructions on the verdict form carefully.
13 As you heard, there are nine different counts. There are some
14 additional subquestions that either need to or need not to be
15 answered depending on your earlier answers. So please follow
16 the instructions very carefully. And the foreperson should
17 mark the answers and sign and date the verdict form.

18 When you reach a unanimous verdict, send a note to me
19 through the bailiff stating that you have reached a verdict
20 without stating the verdict itself. Do not send the verdict
21 form. When asked to do so, return to the courtroom and have
22 your foreperson bring the verdict form with him or her.

23 There's one last piece I just want to talk about in terms
24 of schedule. We will -- once you begin your deliberations
25 presumably you'll have lunch at that point. The clerk will

1 direct you, give you instructions on how that's going to work.
2 Generally speaking in a trial of this length it's not at all
3 uncommon to have the deliberations stretch over multiple days
4 or sessions. I do request for purposes of the schedules that
5 your fellow jurors probably set up at the beginning of the
6 trial, as well as for the staff and the attorneys who need to
7 be on standby whenever you're deliberating, that you plan to
8 end any deliberations if they're not completed by 5 p.m. on
9 any given day. I ask you to send me a note reporting on when
10 you plan to leave and I will either respond back either
11 directly by note or through a communication through the clerk
12 that you can then leave.

13 For any given day we ask you to return to start at 9:00
14 along the same lines as you've been doing. I will not require
15 you to come back into the courtroom for a formal session at
16 the beginning or end of the day, but you should send a note
17 when you're all ready and beginning to deliberate and the
18 foreperson should make sure that there's no discussion of
19 deliberations ongoing once jurors start to leave at the end of
20 the day or before everyone has started to arrive at the
21 beginning of the day and that the discussions only occur when
22 everyone is together and you are formally beginning or
23 continuing with your deliberations.

24 And finally, I do need to have the pleasant task of
25 addressing alternate jurors. As I believe you heard me allude

1 to earlier in the trial, we have more jurors here than we
2 needed which is why when we lost a juror because of medical
3 issues we could continue. A deliberating jury consists of 12
4 jurors. Currently we still have 15 of you. We did better
5 than we sometimes do in terms of maintaining our jurors. We've
6 had that many because it's good practice to have the alternate
7 jurors in the event that during the trial one or more jurors
8 can no longer sit on the jury as you've seen happen. So at
9 this time I need to tell our last three jurors, Juror No. 14,
10 15, and 16 in the back row to my right that you are the
11 designated alternates and so you will not join in the
12 deliberations that are about to begin.

13 Now let me say two things to the alternate jurors.
14 First, your service is not yet complete. In the event that
15 during the deliberations a juror for whatever reason could not
16 continue with the deliberations, we will call you off the
17 bench so-to-speak and send you in to substitute for that
18 juror. Now if that happens, you will not join in the middle.
19 The rules require that the jury start the deliberations all
20 over again so that the new deliberating juror is not at a
21 disadvantage. So while that can happen, obviously it's
22 incumbent on the rest of the jury to try to stick together as
23 a group so that we don't have to restart the process unless it
24 becomes absolutely necessary.

25 So as of now, you're free to leave the courthouse and go

1 back to your regular life, but because -- but please leave
2 your contact information with the courtroom clerk so that we
3 can reach you if we do need to call you back for
4 deliberations.

5 Also, because there remains the possibility that you may
6 be pressed into service in deliberations, you must continue to
7 follow my previous instructions that you not discuss the case
8 with any other juror on this case, that you not discuss it
9 with anyone else in person or electronically, that you not
10 read anything about this case, and that you not conduct any
11 research about the case. Once the verdict has been returned
12 the courtroom clerk will contact you to inform you of the
13 verdict and remove that restriction.

14 The second thing I want to say to our alternate jurors is
15 thank you. Assuming that this is the end of your jury service,
16 I know some alternates are disappointed, others are relieved
17 that they do not participate in the deliberations. Either way,
18 your service throughout this trial has been a crucial part of
19 our ability to fill the Constitution's guarantee of a trial by
20 jury and to ensure that our system of justice remains in the
21 hands of the people. So before you leave if you don't mind
22 waiting briefly, I would like the opportunity to personally
23 thank you for your service.

24 And then finally, I just want to state for the record, we
25 do have that empty seat in the jury box and I'm going to ask

1 Juror No. 13 who is the last person before the alternates to
2 occupy that seat in any further visits here to the courtroom.
3 We will redesignate you as Juror No. 10 for the record and
4 those jurors numbers 1 through 12 will be the deliberating
5 jury at least at this point.

6 So with that, I'm going to ask the bailiff to come
7 forward to take the oath.

8 **THE COURTROOM DEPUTY:** Please raise your right hand.
9 **(Courtroom Security Officer, sworn.)**

10 **THE COURTROOM DEPUTY:** Please state your name for
11 the record.

12 **THE COURTROOM SECURITY OFFICER:** CSO Michael
13 Dornberger.

14 **THE COURTROOM DEPUTY:** Thank you.

15 **THE COURT:** Thank you. Mr. Bailiff, you can lead the
16 jury out to deliberations.

17 **(The jury exited the courtroom to begin**
18 **deliberations at 12:55 p.m.)**

19 **THE COURT:** Thank you very much. Please be seated.
20 Just briefly, I want to confirm that counsel has left contact
21 information with Ms. Solomon; is that correct?

22 **MR. GUILLAUME:** Yes, Your Honor.

23 **MS. GROSSI:** Yes, Your Honor.

24 **MR. HAWKS:** Yes, Your Honor.

25 **THE COURT:** And we will hope to have you here within

1 five minutes, if possible, if there's a question or a verdict.

2 I understand that between Mr. Crawley and Mr. Hanlon we
3 may not see you if there's a need this afternoon. Just so
4 long as one member of your team is available and has full
5 authority to act on behalf of your side, I think that will be
6 okay.

7 As you heard me say, I'm not going to require you all to
8 come at the end of the day or the beginning of the day to
9 convene the jury, but I do ask you to be on standby until you
10 hear from the clerk and she'll let you know when the jury has
11 left for the day and when they've arrived in the morning so
12 that you know when to be on standby.

13 And then finally I just want to make sure that the
14 parties have conferred or do confer with Ms. Solomon or each
15 other to confirm that the exhibits that are going back to the
16 jury, or that everyone agrees on what's going back to the
17 jury. Obviously I would assume the guns and the drugs are not
18 going back to the jury. I didn't mention it now, but the
19 procedure would be if there's a question and they want to see
20 one, we may need to have it available to bring them back into
21 the courtroom to let them look at something again. So I'd ask
22 the Government to be prepared to facilitate that if for some
23 reason that were to happen.

24 Anything else we should discuss -- oh, and then did we
25 give out the verdict forms yet? Why don't you hand out one to

1 each team. Again, I only just changed the headers, but just so
2 you have those verdict forms. The language on Count Five just
3 using the same language for each description of that charge,
4 so we'll give you each a copy of that so you have that going
5 into any verdict that we receive.

6 Well, with that we'll just -- I'll stay close by and
7 we'll see where things go. Thank you very much.

8 **(Recess was taken while jury deliberated.)**

9 **(Proceeding concluded.)**

1 CERTIFICATE OF OFFICIAL REPORTER
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NUMBER:
SCOTT ANTHONY WILLIAMS and) TDC-18-0631
and TAEYAN RAYMOND WILLIAMS,) VOLUME XI
Defendants.)
_____)

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
BEFORE THE HONORABLE THEODORE D. CHUANG
UNITED STATES DISTRICT JUDGE
Wednesday, May 10, 2023
Greenbelt, Maryland

A P P E A R A N C E S

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Proceedings Recorded by Mechanical Stenography

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P R O C E E D I N G S

(11:08 a.m.)

THE COURTROOM DEPUTY: The matter now pending before this Court is Criminal Action Number TDC-18-0631, United States of America v. Scott Anthony Williams and Taeyan Raymond Williams. We are here today for the purpose of a jury trial. Counsel, please identify yourselves for the record.

MS. GROSSI: Good morning, Your Honor. Leah Grossi, Michael Hanlon, and William Moomau on behalf of the United States. Here with us at the counsel table is Kyle Simms with the Maryland State Police.

THE COURT: Good morning.

MR. HAWKS: Good morning, Your Honor. Kwasi Hawks and Mr. Dwight Crawley on behalf of Mr. Scott Williams, seated between us.

THE COURT: Good morning.

MR. GUILLAUME: Good morning, Your Honor. For the record, Alfred Guillaume and Christopher Nieto on behalf of Mr. Taeyan Williams, seated to my left.

MR. NIETO: Good morning, Your Honor.

THE COURT: Good morning. Good morning to all the parties and the members of the audience. I am here to report on some notes we've received from the jury and to seek the views of counsel on them.

Just to recap, if I get something entirely ministerial

1 like particularly we're leaving at the beginning or end of the
2 day I'm not going to call you in for that. Last night the jury
3 did report they were ready to break around 5:10 p.m. They
4 included in with that a note or as part of their note they
5 said there has been difficulty with agreeing with verdicts on
6 many counts and some jurors verbally stating their opinion is
7 their opinion and unwilling to hear other views/evidence. I
8 didn't respond to that issue. It wasn't really a question. I
9 did send a note saying you may leave and come back tomorrow at
10 9:00. I just wanted to report that that note was received,
11 just for everyone's information in case there's anything you
12 want me to do about that.

13 Then this morning we got a note saying they were arriving
14 and ready to start deliberating and that was fine. I did not
15 actually respond to that. I think that was -- but there was
16 nothing substantive about that.

17 Then at -- they didn't write the time down, but the next
18 note stated, "The folder for Exhibit 417B is empty. Are we
19 able to get this piece of evidence?" So I'm assuming that was
20 just an oversight and I actually did not check. In light of
21 the other notes I was looking at other issues. But to the
22 extent 417B is in evidence can we provide that copy, make sure
23 everyone agrees that it's the right document?

24 **MS. GROSSI:** Yes, Your Honor.

25 **THE COURT:** Okay. And so you can provide that to the

1 clerk once both sides, all three sides have agreed on what the
2 document is.

3 As part of that same note they stated, "The Wickr
4 messages between NSmothers account and Larrybird50 cannot be
5 located in the evidence. Can we get a copy of such or the
6 exhibit number to better locate it?" My thought on that would
7 be if we can agree on what exhibits they're referring to, it
8 would make sense for me in a note to tell them what the
9 exhibit numbers are because they specifically asked for it.
10 But the issue then is can we agree on what we think or we
11 believe they are referring to.

12 I know there were Wickr messages between the NSmothers
13 account and Larrybird50 . I don't know whether it was a single
14 exhibit or multiple numbers. I think just as a process, does
15 anyone have a problem with that if the parties meet and confer
16 and decide or at least see if they can agree on which exhibits
17 those are?

18 **MS. GROSSI:** Yes. We don't have a problem from the
19 Government's side.

20 **MR. HAWKS:** No objection, Your Honor.

21 **MR. NIETO:** That's fine, Your Honor.

22 **THE COURT:** So just off the top of your head, Ms.
23 Grossi, do you have a sense of whether that's one exhibit with
24 a lot of different messages or whether it's spread out across
25 multiple messages?

1 **MS. GROSSI:** I believe it's spread out across
2 multiple, Your Honor. I just have to look back because I think
3 his Wickr screen name might have changed occasionally, so I
4 need to look back and identify this.

5 **THE COURT:** Okay. I mean, the note refers to
6 Larrybird50 so I would take the view that if there was some
7 other name used by Mr. Rayburn as part of Wickr that we had a
8 screenshot for it, that's not what they're asking for. Even
9 though maybe they were thinking that, but it's not what they
10 asked for. But it also says "NSmothers account" so to the
11 extent Mr. Smothers had more than one I think it's clear
12 they're asking for the ones that involved anything that was
13 from -- or to or from Mr. Smothers. So that's how I would
14 interpret it.

15 So what I would suggest is after this session, perhaps
16 the parties can meet and confer. If you can agree on certain
17 numbers and provide those to me and agree that I would send a
18 note giving them the numbers, that's great. If there's a
19 disagreement we can have a discussion about that. And so
20 that's how I would handle the second note.

21 The third note is more challenging. And you all have
22 copies of these; is that correct?

23 **MS. GROSSI:** That's correct, Your Honor.

24 **MR. HAWKS:** Yes, Your Honor.

25 **THE COURT:** Although at least for now my procedure

1 during the trial is I'd like to take the notes back after we
2 use them. You can ask to see them again at some point, but I
3 don't want them out of the courtroom until at the end of the
4 trial we'll make a determination as to whether anything is
5 under seal or not. But certainly feel free to look at them
6 now and if you need to see them again after the hearing the
7 clerk will give you an opportunity to do that.

8 So the note reads, "The jury is in a compromising
9 position. There is one juror who is unwilling to hear others'
10 stance. The juror is expressing great bias in the case based
11 on culture and refuses to cooperate and communicate with
12 others without aggression and raising their voice. This is
13 creating unrest with the jury. Example, quote, 'this is my
14 opinion, you cannot change it. I said what I said.' Unquote.
15 Can this juror be removed and replaced with an alternate? How
16 should we proceed?"

17 Those are both questions. And then it says at the bottom,
18 "Cultural bias statement: Quote, 'We all know about the
19 Jamaicans, they chop people up.'" Unquote.

20 So in looking at this note, my initial reaction of the
21 top part was there's nothing unusual about jurors having
22 differing views. Someone saying "This is my opinion, you
23 cannot change it. I said what I said." This is what jurors
24 deal with. They have to convince each other. Sometimes there
25 are stubborn jurors who don't want to change their mind at the

1 beginning and we see how it goes, whether they end up coming
2 to a meeting of the minds at some point. So that part I don't
3 see a major issue with, certainly just this shortly into
4 deliberations. And if that was all we were dealing with I
5 would clearly answer the questions about whether they should
6 be removed and replaced with "No, keep trying."

7 There was in the first part, though, a reference which
8 was not specific, but said "He's expressing great bias in the
9 case based on culture." And the example of that apparently at
10 the bottom was the statement I just read about what they
11 called the "cultural bias statement." So that creates a
12 different issue, obviously.

13 And my initial -- well, I'm going to invite both sides to
14 provide their views on this, but in just the short amount of
15 time since we got this, I was trying to remember the case from
16 the Supreme Court that is at least in the same realm. I did
17 find it with the help of my law clerk, *Pena-Rodriguez v.*
18 *Colorado*, 137 S.Ct. 855 2017. This is not directly on point,
19 but what the Court held in that case was that post verdict, it
20 was appropriate as an exception to the broad, general
21 proposition that we never look behind jury verdicts, but when
22 there was evidence presented that there was racial bias or
23 national origin bias in the jury verdict based on in that case
24 I think somehow there were some affidavits provided by jurors
25 stating that a statement was made in deliberations which

1 exhibited some bias, that the Court could open up an inquiry
2 into -- certainly could consider whether the verdict needed to
3 be set aside, but also could take additional evidence through
4 seeing if the jurors would be willing to talk about it to find
5 out more. So in that instance, again, it was all post-verdict,
6 but the Court made it clear that racial bias in a jury verdict
7 is a Sixth Amendment violation and could be grounds under the
8 certain facts to set aside the verdict.

9 It did not deal with the exact situation we're dealing
10 with here which is we still have a deliberating jury. But I
11 think the principle is clear that we're not in a position to
12 just let this go and say that everything just goes forward. We
13 have to deal with it in some fashion.

14 Couple of ideas, but I'm open -- first off, does anybody
15 have any specific views on this issue or already have any
16 proposals on what we should do or --

17 **MS. GROSSI:** Yes, Your Honor. The Government is
18 concerned about that last statement and spoke with defense
19 counsel about the issue. We came up with a potential solution
20 which would be to send a note back to the jury asking them to
21 identify the juror by number and then potentially having a
22 voir dire with just the judge and the juror to ask if they did
23 say this statement. And if we identify that person, then the
24 Government and defense counsel would be in agreement to excuse
25 that person and replace them with the next alternate.

1 **THE COURT:** Mr. Hawks, anyone from either defense
2 team?

3 **MR. HAWKS:** Your Honor, we certainly believe that
4 some effort should be undertaken to verify that the juror is
5 identified, but we believe that person should be removed and
6 we believe that -- and this is Scott Williams, we believe that
7 there's a statement, "we all know." And so some effort to
8 determine whether another juror has shared that anti-Jamaican
9 sentiment.

10 **THE COURT:** Okay. Do you have a proposal on what
11 that process be?

12 **MR. HAWKS:** Your Honor, our initial thought would be
13 an in camera voir dire.

14 **THE COURT:** Okay, I understand.
15 Mr. Nieto?

16 **MR. NIETO:** Yes, Your Honor. On behalf of Taeyan
17 Williams, the cultural bias statement we believe,
18 respectfully, is grounds for excusal, removal from the jury
19 based on that particular bias. That's contrary to the voir
20 dire process that Your Honor so painstakingly went through at
21 the beginning of this trial.

22 In the same vein as what Ms. Grossi and what Mr. Hawks
23 was saying, we simply want to be able to identify the correct
24 juror who allegedly made this statement and we did not wish --
25 from our perspective we didn't want to get too involved in

1 that process because they are in the deliberations. And so if
2 Your Honor felt comfortable voir diring or getting some
3 confirmation in a capacity in which that juror could speak
4 more freely with Your Honor in lieu of speaking in front of us
5 to give us some insight as to what may be going on behind
6 those doors, we felt that to be appropriate. But again, Your
7 Honor, respectfully, this bias statement is beyond the pale
8 from our perspective as coming from a sitting juror
9 deliberating on this case.

10 **THE COURT:** I understand. I thought what I heard you
11 saying was not doing this in court on the record. Or -- I'm
12 not sure what your proposal was in terms of what should be
13 asked or not asked.

14 **MR. CRAWLEY:** Court's indulgence. Your Honor, on
15 behalf of Mr. Williams, my client does not wish to have this
16 individual continue to serve. To the extent that the Court
17 needs to verify whether or not the person expressed these
18 views, we do not have an objection to the Court simply
19 verifying that information to see if this, in fact, was
20 expressed. But based on what was written here, I don't believe
21 that it can be cured. And if for some reason it was written in
22 a way to misrepresent what the juror actually did express, I
23 think we have a larger problem. So to save the Court time I
24 think everyone is in agreement that if the person did express
25 these views they should no longer serve on this jury. I think

1 the Government would agree with me. But if it is reported back
2 to the Court through that juror that that's not what he or she
3 expressed, I think the Court should advise us and I think at
4 that point we may have a different issue as to why that was
5 communicated in such an inflammatory way if that's not, in
6 fact, what that person says.

7 **THE COURT:** Ms. Grossi?

8 **MS. GROSSI:** Yes. The Government is in agreement
9 that this is an inappropriate statement and this juror should
10 be removed. I guess the Government is concerned about trying
11 to figure out which juror it is. And so we thought that it
12 would be more easy to identify the juror if the parties
13 weren't here, but the judge just asked the questions and that
14 could be done on or off the record.

15 As to Mr. Hawks' statement about this being a larger jury
16 problem, I read this note as talking about one juror. And so
17 at this point, we don't think that there's multiple jurors
18 with this cultural bias statement here. And we want to be very
19 careful obviously not to pierce the deliberation process.

20 **MR. CRAWLEY:** And Your Honor, just to clarify a
21 little bit where I'm coming from with this, in order to
22 protect the sanctity of the jury, I don't want there to be a
23 feeling of mistrust between jurors. So what I'm concerned
24 about is that if we were to get into some kind of open back
25 and forth even with the Court, that it could create this

1 notion that there is some misrepresentation. I think this
2 juror -- and I'm not going to call this juror the foreperson,
3 but let's just assume that that's who it is at this point,
4 they're taking this position, the Court inquires of that
5 person, "Is this what you heard?" The Court then examines the
6 person to whom they've identified as the person and say "Hey,
7 this is what I'm understanding was expressed" and it's left
8 mainly between those two individuals, unless the Court feels
9 it's appropriate to verify through others.

10 If the alleged perpetrator or the person who said this
11 confirms to the Court that that was uttered, then I think it's
12 self-evident that that person can no longer serve. I think
13 that bias has been established. So I just don't want to lose
14 the jury in the notion that now we're in a tit for tat,
15 somebody saying one thing and another person saying another
16 thing and the jury then starts to lose faith in one another. I
17 think that needs to be curtailed as much as possible.

18 **THE COURT:** Okay, well, these are all good thoughts.
19 The question is, how do we proceed. My initial thought is to
20 ask them to suspend deliberations while -- and then to have
21 the author of the note come in for some, you know, a colloquy
22 to confirm what was said, identify who said it, and perhaps
23 give us some context as to what we're talking about. And then,
24 I mean, the other option which the Government suggested was
25 perhaps sending a note asking for that. It's not clear to me

1 from our note whether everybody on the jury saw this note and
2 agreed with it. I mean, usually that's the idea is the jury
3 all agrees on what they want to send to us, but it's not
4 always the case. This could have been written by just one
5 person. I said that the notes have to be signed either by the
6 foreperson or one or more members of the jury. So it could
7 just be one member of the jury saying this. And so I think by
8 asking to see that person, perhaps it's different than sending
9 a note which presumably everyone would have to get to see,
10 which is who we are talking about.

11 And then based on that, we would then likely if --
12 assuming this person can confirm what is already written, we
13 would call in the juror who is identified, have that
14 discussion and I think what I would say is at least as a
15 technical matter, I would not just inquire whether the
16 statement was made, but also whether -- what they meant by
17 that. Do they have a long-standing bias of any kind? Does it
18 affect their ability to be a fair and impartial juror? Can
19 they set aside those views?

20 My strong view would be that it would have to be
21 something quite extraordinary -- if they made this
22 statement -- for whatever the answers of that to be a reason
23 to keep the juror. But I think I need to ask all those
24 questions just to be fair, particularly if the statement that
25 they admit to is slightly different or refers to something

1 else. But I would have a colloquy along the lines of what we
2 have in voir dire generally saying, "Did you say this? Does
3 it -- do you have a bias? And if so, can you be fair?" But I
4 agree with the sentiment in the room from counsel that if he
5 actually said this or she actually said this, this would be
6 grounds for striking and I would be highly inclined to do
7 that, again, depending on what the answers are.

8 So for those first two steps I think one of the issues is
9 we're in a trial here. The defendants have a constitutional
10 right to be present for all relevant portions or all parts of
11 the trial and that's where we are right now. So do I hear the
12 parties saying they want -- affirmatively want to waive the
13 right to be present for this or do you want to be present for
14 this? Because I think the default is you have a right to be
15 here and you should be here. To the extent the parties think
16 -- certainly in a normal voir dire we'd have counsel asking
17 questions too. That might not be the best idea, but we can
18 discuss how to do that, whether it runs through me or
19 otherwise. But certainly being present you have the right to
20 be present. If everyone agrees they don't want to be present
21 just to kind of get a more candid answer I think I could live
22 with that if it's very clear on the record that that was
23 everyone's decision. Either way it will be on the record in
24 the sense the court reporter will be taking everything down so
25 one could look at the record later. But again, I don't want

1 -- I wouldn't want a situation where everyone said, "Well, why
2 don't you talk to them yourself" and then it turns out later
3 on you say, "Well, actually we wanted to be there." And that
4 would be a problem.

5 **MR. GUILLAUME:** Your Honor, if I may, I think that
6 perhaps a happy medium would be after identifying the person,
7 the husher could be on. I don't necessarily want to waive my
8 client's presence. I think the Court is right, he has a
9 constitutional right to be present. I don't want anything to
10 come up later where something else, you never know what may
11 happen, and what issues may be raised on appeal. So as far as
12 that's concerned, perhaps something with the husher that if
13 the court reporter takes it, that he's present for, that we
14 don't necessarily hear at the time, then that person could be
15 excused and then the Court could relay back to us what was
16 said, the decision the Court makes. That potentially could be
17 a happy medium, but I think I would like my client to be
18 present. Any time we're waiving a constitutional right it's
19 always very problematic, I would say especially --

20 **THE COURT:** Right. And I wasn't even suggesting you
21 do that, just it sounded like there was at least some sense
22 that it could be -- someone was proposing perhaps trying to do
23 this in as small a group as possible.

24 **MR. GUILLAUME:** One last point if I may, that as Mr.
25 Nieto just reminded me, I think the person if they admit to

1 making the statement, there's no need for the Court to really
2 have an in-depth colloquy because they've identified their
3 cultural bias and I think all three parties would agree that
4 we don't want that person as part of our jury. That's from our
5 point.

6 **THE COURT:** No, I understand that. And I'm largely
7 in agreement with you. I think I would still ask other
8 questions for thoroughness, but we'll see where we are at that
9 point.

10 Mr. Crawley, you wanted to say something?

11 **MR. CRAWLEY:** Your Honor, we would on behalf of Mr.
12 Scott Williams, we will not waive. He wishes to be here. He
13 wishes to hear everything. He does not want the husher on. I
14 think he's entitled to hear just as he was able to hear the
15 voir dire, he's able to hear about this. These are people who
16 are essentially deciding his freedom, as the Court is aware.

17 **THE COURT:** Well, you don't need to argue with me on
18 that. That was my presumption.

19 **MR. CRAWLEY:** I understand.

20 **THE COURT:** There was some sentiment, including from
21 the defense side that maybe we don't have this this way, but
22 if upon reflection you want to do it that way, then I have no
23 problem with that.

24 **MR. CRAWLEY:** Yes, Your Honor. Thank you.

25 **THE COURT:** Okay. So any objection to taking it

1 starting with the juror who wrote the note and then going to
2 the juror who is the subject of the note and then seeing where
3 we are at that point?

4 **MS. GROSSI:** No, Your Honor. I think that's a good
5 course of action.

6 **MR. GUILLAUME:** No, Your Honor.

7 **MR. CRAWLEY:** No, sir.

8 **MR. NIETO:** And forgive me, I'm so sorry, Your
9 Honor. As part of that is Your Honor going to instruct the
10 jury to suspend their deliberations as well?

11 **THE COURT:** Yeah, I'm going to have to do that.

12 **MR. NIETO:** There's no objection from our
13 perspective on that point.

14 **THE COURT:** Thanks. I think the way we would handle
15 it, perhaps, I think this makes sense just again, not knowing
16 -- or trying to follow the sentiment that started this whole
17 discussion about who is involved is we have the juror come in,
18 but then I would ask questions and then if counsel want to
19 propose additional questions, maybe we either through the
20 headsets or come up here with the husher, discuss what those
21 questions are before we ask them further. And I think it may
22 make sense for me to continue to ask the questions rather than
23 having different attorneys asking the questions.

24 If for some reason one of these jurors -- well, the first
25 one we hope would, but if the jurors stay on the jury I think

1 additional questions on this page just how they feel about who
2 is asking them or how it's phrased, I don't want to give them
3 any sort of further positive or negative reason to have a view
4 about what either side is saying. So if you can funnel it
5 through me, I think that makes the most sense.

6 Hold on one second. I just want to take a look. Someone
7 just gave me a new case to see if we're doing anything that's
8 consistent or inconsistent with that.

9 So let's start with this. I'm going to send a note to
10 the jury. So I'm going to send a note that says, "Please
11 suspend deliberations until further notice." And then I think
12 the way to do this is I would start by having the clerk summon
13 the author of the note to come in here first so it's not part
14 of a note that everybody shares. We'll talk to that juror and
15 then likely we would talk to the juror who allegedly made the
16 statement and we'll go from there. I think some of this
17 depends to some degree on what we hear as to what we do beyond
18 that. So why don't we just take it step by step. And I do
19 think that, again, we can see -- well, we'll see how it goes
20 in terms of what additional questions counsel have. At least
21 at the outset let me know if you have questions up here at
22 sidebar. If it makes sense to have you ask them, we will. If
23 not, then I'll ask them. Okay.

24 **MR. CRAWLEY:** Your Honor, I just had one quick
25 question. Before we --

1 **THE COURT:** Yes.

2 **MR. CRAWLEY:** Is the Court going to inquire of that
3 juror at this time if that juror presented this note to the
4 entire jury panel or was this just his or her own --

5 **THE COURT:** Yeah. Part of the reason to do this is
6 to find out the scope of what we're dealing with. I think it
7 could be that this is the sentiment of a lot of jurors because
8 they all heard this, it was stated in full deliberations. It's
9 also possible this statement was made in a side conversation
10 before or, you know, before the day began or sort of, you
11 know, I don't know whether -- I do want to know this juror's
12 view on how many people heard this statement and the
13 circumstances because I think it is certainly a possibility
14 that if others heard it, we might need to inquire further. I
15 understand your point about let's start with these two, but if
16 there's more to it than that, then we may need to inquire
17 further. I think in many of these cases if it's said to
18 everybody there is inquiry to all the jurors. So we'll just
19 have to take it step by step.

20 So I will ask how this person knows the statement, who
21 else has heard it, et cetera. And we can use that information
22 as we go along. Okay? So we'll send that note in and then
23 we'll also ask that other juror to come in here.

24 **MS. GROSSI:** Your Honor? I'm sorry, just one
25 question. When you ask them to suspend deliberations, are you

1 going to ask them to stay close by or is it going to be for
2 the remainder of the day?

3 **THE COURT:** Oh, well it's not for the remainder of
4 the day, but I'm hoping we can get through this and they can
5 continue. But maybe I would -- maybe I need to be clear about
6 that. I don't want anybody to misunderstand me. So the note
7 now reads, "Please suspend deliberations until further notice.
8 You are to remain in the jury room until further instructions
9 are provided." Which could include calling people in, but
10 also tells them they shouldn't just go home either.

11 **(Juror No. 4 enters the courtroom.)**

12 **THE COURT:** Good morning, ma'am. Thank you for
13 being here. You can stay seated, if you can make sure that the
14 microphone is close to you because I'm going to ask some
15 questions of you.

16 **JUROR NO. 4:** Okay.

17 **THE COURT:** And I wanted to inquire because I
18 received your note. I believe you sent the note that referred
19 to bias in this case based on culture. Is that the note that
20 you sent?

21 **JUROR NO. 4:** Correct.

22 **THE COURT:** And for the record, this is Juror No. 4,
23 correct?

24 **JUROR NO. 4:** Yes.

25 **THE COURT:** Okay, so I wanted to get more detail on

1 the circumstances of this statement or statements. So first
2 off, do you know the number of the juror who allegedly made
3 this statement?

4 **JUROR NO. 4:** Three.

5 **THE COURT:** And can you tell me sort of the
6 circumstances under which you heard it? Was it in front of
7 everyone, during a certain time of deliberations, was it
8 before or at the end of the day when it was just the two of
9 you or somewhere in between?

10 **JUROR NO. 4:** No, it was during deliberations there
11 were just comments being made, side comments within
12 conversations on the side while we were deliberating. And the
13 juror has just not been cooperative.

14 **THE COURT:** So when you say -- so the one statement
15 I want to start with is the one you put in quotes. "We all
16 know about the Jamaicans. They chop people up." So you heard
17 him say that?

18 **JUROR NO. 4:** Yes, several people have heard him say
19 that.

20 **THE COURT:** And when you said it was in
21 deliberations but there were some side conversations, was this
22 something in front of all 12 or was it something that was
23 primarily amongst a smaller group?

24 **JUROR NO. 4:** Everyone was together, we were all
25 talking, but he was making side conversations and then

1 everyone kind of stopped when he made this comment.

2 **THE COURT:** So your perception was that everyone
3 heard it?

4 **JUROR NO. 4:** Yes.

5 **THE COURT:** And did he make -- other than -- and
6 this was just -- so he says, "We all know about the Jamaicans.
7 They chop people up." That's as close to a direct quote as
8 you can give me?

9 **JUROR NO. 4:** Yes.

10 **THE COURT:** Did anyone else make any statements that
11 indicated they agreed with that view?

12 **JUROR NO. 4:** No.

13 **THE COURT:** Did anyone make any statements that
14 indicated they were familiar with that concept or that
15 viewpoint?

16 **JUROR NO. 4:** Not to my knowledge.

17 **THE COURT:** Okay. In addition to that statement,
18 were there any other statements made by this juror that you
19 viewed as being culturally biased in some fashion?

20 **JUROR NO. 4:** That was the only one specific to
21 cultural bias.

22 **THE COURT:** Did anyone ask him or did he further
23 clarify what he meant by that in any fashion?

24 **JUROR NO. 4:** He's been unwilling to communicate
25 with us any further. I've kind of stopped deliberations and I

1 told him, I said, "You know, this is what we're working on.
2 This is what we're discussing. We understand that you feel
3 this way." And his response was, "I told you my opinion and
4 that's my opinion. You can't change it." And so my response
5 was, I said, "I understand this is how you feel, but where is
6 your evidence to support how you feel so that someone else may
7 be able to better understand your perspective and your point
8 of view?" And he just looked at me and won't respond. He
9 said, "I'm not repeating myself anymore."

10 **THE COURT:** Okay, so was that discussion about this
11 statement or about something else?

12 **JUROR NO. 4:** That was in general with the
13 deliberations.

14 **THE COURT:** Okay. But in terms of the culturally
15 biased statements, this is the one that you heard and there
16 aren't any others that relate to Jamaicans or otherwise?

17 **JUROR NO. 4:** No.

18 **THE COURT:** Okay. And the note that you sent me just
19 to clarify, did all jurors see this note before it came to me
20 or is this a smaller group that saw it? This is the note in
21 which you quoted that statement.

22 **JUROR NO. 4:** A smaller group saw it. The others
23 they just -- everyone was just like, "Well, we're not going to
24 get anywhere if you're not willing to cooperate" and he's
25 become very aggressive and yelling and just aggressive with

1 everyone when they would try to understand.

2 **THE COURT:** Does he know that you sent this note?

3 **JUROR NO. 4:** No, he's not -- he won't cooperate, he
4 won't engage with anyone anything regarding to the case or any
5 kind of deliberation. He just wants to do his own thing.

6 **THE COURT:** So in terms of you said there were
7 several jurors who are familiar with the note and presumably
8 agreed with what you said in the note?

9 **JUROR NO. 4:** Yes.

10 **THE COURT:** About particularly that the statement
11 was made?

12 **JUROR NO. 4:** Correct.

13 **THE COURT:** But it's your understanding that
14 everyone heard this statement?

15 **JUROR NO. 4:** Yes.

16 **THE COURT:** Now let me ask you personally, having
17 heard this statement, does it affect your ability to be fair
18 and impartial in any way to hear this viewpoint expressed in
19 the jury room by a fellow juror?

20 **JUROR NO. 4:** No.

21 **THE COURT:** So having heard this viewpoint, is there
22 any reason that that affects -- would create any potential
23 unfairness or bias in your own deliberations having just heard
24 this statement by someone else expressing their own viewpoint?

25 **JUROR NO. 4:** No.

1 **THE COURT:** Do you believe that you can continue as
2 a fair and impartial juror in this case?

3 **JUROR NO. 4:** Yes.

4 **THE COURT:** Okay. Does counsel want to discuss
5 whether there are any further questions I should ask?

6 **MR. CRAWLEY:** No questions on behalf of Mr. Scott
7 Williams.

8 **MR. GUILLAUME:** No questions on behalf of Taeyan
9 Williams, Your Honor.

10 **MS. GROSSI:** No questions on behalf of the
11 Government.

12 **THE COURT:** Okay. So thank you, ma'am, for your
13 participation up to this point. I'm not sure whether we'll
14 need to ask you any follow-up questions, but we might call you
15 back or we may call other jurors back. I think you saw we had
16 a note saying to suspend deliberations until further notice,
17 having everyone stay close because we hope to resume them once
18 we're done with this process. But thank you for bringing this
19 to my attention.

20 **JUROR NO. 4:** I have one question for you. This one
21 juror in particular said at the beginning of deliberations
22 that they didn't want to participate, so I don't know how that
23 would also affect what you all need to discuss. But he made
24 it clear initially when we first went into the room before we
25 even chose a foreperson to speak he said, "I told them I did

1 not want to be here and I didn't want to participate." So I
2 think he's just unwilling.

3 **THE COURT:** We're still referring to Juror No. 3,
4 correct?

5 **JUROR NO. 4:** Correct.

6 **THE COURT:** Thank you, ma'am. You can step back to
7 the jury room. Oh ma'am, one thing before you -- I think it
8 would be helpful if you could refrain from discussing with
9 your fellow jurors our discussion now. I think that just keeps
10 everybody in a more independent place, depending on if we need
11 to talk to anyone else. So can I ask you to do that?

12 **JUROR NO. 4:** Yeah.

13 **(Juror No. 4 returns to the jury room.)**

14 **THE COURT:** Okay, so our next step I believe -- you can
15 all be seated, was to in this instance call in Juror No. 3.
16 Based on what you've heard is there anything you would propose
17 I ask that we can sort of agree on in advance? My plan would
18 be to ask him if he made this statement, try to get any
19 clarification, if there's circumstances that are different
20 than what was described. And as I said, I would likely still
21 ask even -- certainly if he says he said something different
22 I'll try to clarify what that is. I'll certainly ask to the
23 extent that this affects his ability to be fair and impartial
24 and those types of questions just to have a clear record as to
25 any argument he had or basis to conclude that he can be fair

1 and impartial even if I understand that everyone's view is
2 that that is likely impossible if he made this statement. But
3 particularly if the statement is a little different than what
4 we heard, I think all those questions need to be put on the
5 record. But is there anything in particular you want me to
6 ask?

7 **MR. CRAWLEY:** Your Honor, on behalf of Scott
8 Williams we just would like the Court to stick with the exact
9 language that was provided. I understand the Court has a lot
10 of leeway in trying to clarify what was actually said, but
11 also Your Honor as the Court may recall during the initial
12 voir dire, we had a lot of strikes for cause where the Court
13 basically expressed being consistent with people who came into
14 the case with these preconceived notions. I think a lot of
15 those centered around law enforcement. In this particular case
16 I think the threshold has been exacerbated by the fact that
17 this is race and culturally based in my opinion. And so
18 therefore I don't believe -- and this is not directed at the
19 Court personally -- I don't believe that attempts to try to
20 rehabilitate such a profound statement can be made. If he
21 said it, he should be excused and I think that's supported by
22 all the parties. So I'm not telling the Court how to handle
23 its business, but it may save us some time.

24 **THE COURT:** I understand and I don't disagree with
25 your view, I just want to make a thorough record. I would not

1 view it as an attempt to rehabilitate him by any stretch.
2 That's not what I'm trying to do. I'm just trying to get a
3 thorough record, that's all.

4 Anything the Government or Mr. Taeyan Williams' team
5 wants to add?

6 **MR. GUILLAUME:** No, nothing to add.

7 **MS. GROSSI:** Nothing else from the Government.

8 **THE COURT:** So why don't we call in Juror No. 3.

9 **(Juror No. 3 entered the courtroom.)**

10 **THE COURT:** For the record, this is Juror No. 3?

11 **JUROR NO. 3:** Yes.

12 **THE COURT:** And I wanted to call you in just to get
13 some clarification. It was brought to my attention that there
14 may have been a statement that you made as part of
15 deliberations that I wanted to inquire about.

16 **JUROR NO. 3:** Yes.

17 **THE COURT:** The statement was -- and again, this may
18 or may not be a direct quote, but along the lines of "We all
19 know about the Jamaicans. They chop people up." Did you say
20 anything like that during deliberations, even if it was a side
21 conversation with someone else?

22 **JUROR NO. 3:** Not necessarily like that, Your Honor.

23 **THE COURT:** Can you just move closer to the
24 microphone?

25 **JUROR NO. 3:** No, no.

1 **THE COURT:** When you say "not necessarily," was
2 there something that this might relate to if you didn't say it
3 exactly that way?

4 **JUROR NO. 3:** I was referencing something that I
5 heard during the testimony about the word "saw." I think it
6 came from Musa, the person that testified.

7 **THE COURT:** Okay, so you were referencing that. To
8 the best of your recollection, what did you say?

9 **JUROR NO. 3:** I was saying what he said, basically
10 what he was repeating that in the testimony that what he said
11 that Scott said, Mr. Williams said to him.

12 **THE COURT:** So you recall that Mr. Musa said
13 something like that?

14 **JUROR NO. 3:** Yes.

15 **THE COURT:** So is it your view that to the extent
16 you said it you were just referring to what Mr. Musa said? It
17 wasn't your own viewpoint?

18 **JUROR NO. 3:** No, it wasn't my viewpoint, no.

19 **THE COURT:** Have you ever heard of that concept in
20 the past?

21 **JUROR NO. 3:** No.

22 **THE COURT:** Do you believe that to be true, that
23 Jamaicans tend to do a certain thing or --

24 **JUROR NO. 3:** I can't testify to anything like that,
25 no. I can't say that anybody does something like that.

1 **THE COURT:** So whether it's from the testimony or
2 otherwise or from your own prior experience, do you have any
3 viewpoints or understandings about the Jamaican culture that
4 you understand to be true about people from that background?

5 **JUROR NO. 3:** No.

6 **THE COURT:** Do you have any views about Jamaicans,
7 positive or negative, that you can say are your beliefs about
8 how Jamaicans are or how they act?

9 **JUROR NO. 3:** Positive views, yes. They are great
10 artists when they're carving stuff with wood. I've bought
11 several of their pieces. But I've been to Jamaica several
12 times and I've had good relationships with the people from
13 Jamaica.

14 **THE COURT:** Okay. So to the extent that someone said
15 that you said to someone "We all know about the Jamaicans,
16 they chop people up." That was not an expression of your
17 viewpoint?

18 **JUROR NO. 3:** No, it was not.

19 **THE COURT:** Okay. Is there anything you've heard
20 about Jamaicans or experience that would prevent you from
21 being fair and impartial in judging this case going forward?

22 **JUROR NO. 3:** Not at all.

23 **THE COURT:** Does the fact that we've had to have
24 this discussion or that fellow jurors may have heard this and
25 reported it, does that prevent you from being fair and

1 impartial in this case?

2 **JUROR NO. 3:** No, it does not.

3 **THE COURT:** Other than that statement is there
4 anything else that you said in the jury room that related to
5 Jamaicans that could have been viewed as relating -- being
6 specific about views about Jamaicans?

7 **JUROR NO. 3:** No.

8 **THE COURT:** Okay.

9 **JUROR NO. 3:** And just to your point, I am quiet,
10 okay? I listen to the evidence presented and I take my notes
11 and I refer to my notes, okay? And if you are one that's not
12 in agreement with many, you know, you want to find a reason,
13 you know, I mean, then they will come up with one. But I've
14 been questioning everything that's presented in this
15 courtroom. I don't follow judgment, I follow my own facts, I
16 follow my own views and I listen to the directions that was
17 given to me by the judge.

18 **THE COURT:** Okay.

19 **JUROR NO. 3:** Now in that process, if I have my
20 verdict that's different from others, don't look for reasons
21 to try to discredit me because I don't go along with you, and
22 that seems to be the case here.

23 **THE COURT:** Okay. So to the extent people are
24 reporting you made this statement, do you view it as a
25 misunderstanding or something else?

1 **JUROR NO. 3:** I view it as me not wanting to go
2 along with everything that they want me to go along with.
3 Okay?

4 **THE COURT:** Okay.

5 **JUROR NO. 3:** And we all have a slip. Whatever I
6 chose on that slip, that's what I chose.

7 **THE COURT:** Okay, you don't need to tell me what
8 that is.

9 **JUROR NO. 3:** I wasn't going to tell you.

10 **THE COURT:** I understand your point. No, I
11 understand. Okay, is there anything else that came up in
12 deliberations that related to Jamaicans or anything else that
13 you said that might have been viewed as along the lines of the
14 statement I referred to?

15 **JUROR NO. 3:** Nothing else.

16 **THE COURT:** And again, maybe I've already asked
17 this, but having heard this statement what you're saying came
18 from a witness, and also the fact that people are reporting it
19 to you, do you believe you can be fair and impartial going
20 forward?

21 **JUROR NO. 3:** Yes, I do.

22 **THE COURT:** Okay. And do you have any ill will or
23 negative views about Jamaicans in any way?

24 **JUROR NO. 3:** None whatsoever.

25 **THE COURT:** Okay. Okay, does counsel want to --

1 **MR. CRAWLEY:** May we approach, Your Honor?

2 **THE COURT:** Yes, go ahead.

3 **(Counsel approached the bench.)**

4 **THE COURT:** Go ahead.

5 **MR. CRAWLEY:** Your Honor, on behalf of Mr. Scott
6 Williams, I don't want to tell the Court the questions that I
7 think it should ask, but maybe the Court should inquire as to
8 the jury deliberation process for him. I know the first juror
9 that came out talked about him being unwilling to engage and
10 seemed to indicate to us that he was not willing to go through
11 -- there's a lot of evidence in this case, as you know. It
12 seems like he may have even just suggested that he has checked
13 some boxes in the verdict and made a decision without engaging
14 the jury when they are attempting to say "Well, let's just go
15 over each count, let's go over each piece of evidence, let's
16 really try to decipher what this means," that he's already
17 coming to this with a preconceived notion as to guilt or
18 innocence. I think the Court and everyone involved would hope
19 that each juror would give careful attention. They have not
20 been out but for several hours as this Court is aware. So I
21 would ask the Court to ask questions along those lines to see
22 if that's more consistent with what the first juror mentioned
23 to the Court. I don't know if any of my colleagues have
24 anything else.

25 **MS. GROSSI:** Your Honor, I think that I heard

1 something a little bit different. He said that he was quiet
2 and he was listening and I'm a little concerned that he would
3 get into the deliberation process of like did they first all
4 go through the verdict sheet and that's what they're coming to
5 determine. I heard him talking about the fact that he was
6 quiet and he was looking at the evidence. And so the
7 Government doesn't have any further questions. I think we need
8 to figure out what we would like to do. We are not at this
9 point consenting to have him removed, but we'd like to discuss
10 it a little bit further, based on his comments.

11 **THE COURT:** Mr. Guillaume, anything from your side?

12 **MR. GUILLAUME:** Your Honor, on behalf of Mr. Taeyan
13 Williams I agree with Mr. Crawley. It also seems to me that
14 the first juror who I find a little more credible than this
15 juror, indicated that he is unwilling to engage. And he kind
16 of indicated that himself, that checked boxes which would
17 indicate an attempt, an unwillingness to engage as well.

18 I also believe to be quite frank with the Court, I just
19 don't believe his statement to the Court about the Jamaican
20 comment based on his demeanor and other non-- other facts that
21 can be put on the record later.

22 **THE COURT:** I understand. I agree with the
23 Government to the extent that it is a different issue whether
24 he's willing to engage in deliberations. I don't think that's
25 the reason why we're doing an inquiry. We're focused on racial

1 bias. But I will ask one or more questions along the lines of
2 what Mr. Crawley suggested more to the idea of just trying to
3 get a better sense of how it may affect my determination who
4 is telling the truth here. So I'll ask questions that may
5 relate to that only to help me determine maybe what is going
6 on with this statement, not trying to decide whether he's
7 deliberating as well as others. Because as I said at the
8 outset, it's not unusual for jurors not to fully engage and
9 frankly, sometimes they end up engaging later on. It just
10 takes time.

11 But is there a specific question you would like me to
12 ask, Mr. Crawley?

13 **MR. CRAWLEY:** I would leave it to the Court's
14 discretion. I don't want to influence the Court's position.

15 One other thing I would make mention of is that he
16 indicated that he was relying on the testimony of Mr. Musa. I
17 don't recall Mr. Musa referencing "Jamaicans" per se. So I
18 still don't understand to my colleague's point, how that term,
19 if used, would have come up. Even if you accept that he was
20 relying on Mr. Musa's statement regarding that something was
21 done with the body, et cetera, et cetera, the notion that the
22 word "Jamaican" or "Jamaicans" would have come up seems to me
23 to be kind of farfetched, but --

24 **MS. GROSSI:** Your Honor, I do disagree with that. I
25 know that Mr. Musa said that he knew he was Jamaican. I don't

1 think he said the statement that "Jamaicans cut people up,"
2 but at one point Mr. Musa said that he knew he was Jamaican.
3 At another point he said that he bragged about being Saw,
4 S-a-w. So I think there were statements by Mr. Musa that would
5 have come out based on that statement, but I agree that that
6 statement in full was not said by Mr. Musa. But there were
7 pieces of Mr. Musa's testimony that do support what he is
8 saying.

9 **THE COURT:** Okay, thank you.

10 **MR. GUILLAUME:** Your Honor, if I could make one last
11 comment. Mr. Nieto suggested this to me that we perhaps if
12 the juror is unable or willing to admit that he made the
13 comment, perhaps voir diring other jurors only as to that
14 comment.

15 **THE COURT:** No, I mean, that's frankly what I was
16 planning to do. So we'll take it step by step, but I agree
17 with the suggestion.

18 **MR. GUILLAUME:** Thank you, Your Honor.

19 **MS. GROSSI:** Thank you, Your Honor.

20 **(Counsel returned to their trial tables.)**

21 **THE COURT:** Okay, just a couple more questions, sir.
22 I just wanted to clarify. I think you said earlier that you
23 tend to be kind of quiet, you're listening. Have you been
24 willing and able to participate in the review of the evidence
25 itself and to look at the evidence and the materials to help

1 inform your decision?

2 **JUROR NO. 3:** Yes, I have.

3 **THE COURT:** And you would be willing to discuss the
4 case with your fellow jurors?

5 **JUROR NO. 3:** Yes, I do.

6 **THE COURT:** Okay. Well, thank you very much, sir.
7 We're going to send you back to the jury room. I appreciate
8 you coming out to have this discussion. Thank you.

9 **JUROR NO. 3:** Not a problem.

10 **(Juror No. 3 returned to the jury room.)**

11 **THE COURT:** Thank you, everyone. Please be seated.
12 So among other things, this isn't exactly what we anticipated,
13 but I am going to try to check as best I can what Mr. Musa
14 said on this topic, so we're looking for that now. But -- I
15 think the cases generally, I wasn't -- again, I wanted to take
16 it step by step, but various cases including *U.S. v.*
17 *McClinton*, 135 F.3d 1178 from the Seventh Circuit 1998 which
18 dealt with a similar situation, I think even in a very clear
19 situation where this statement was made, we would likely need
20 to voir dire other jurors, if only based on Juror No. 4's
21 statement that everyone heard this statement or at least her
22 understanding was, we would need to at a minimum check with
23 them to confirm that it didn't influence their views in any
24 other way.

25 I credit Juror No. 4's statement that she is not

1 negatively influenced from having heard this statement. I
2 think the fact that she reported it probably further supports
3 the view that this is not going to affect her ability to be
4 fair and impartial. But I think in general in cases like this
5 the Court often inquires of the other jurors to make that
6 determination for all of them as well. And here we have the
7 added question of I think there's still at least a dispute
8 presented by the two jurors as to exactly what was said or how
9 it was said or what it meant. So I think we're going to need
10 to inquire of some, if not all of the other jurors first to
11 make a determination on whether this statement was made and
12 then secondly, if it was made or they've understood it to be
13 made, how it affects them.

14 Now the tricky part is if someone did not hear the
15 statement which is a possibility. I think Juror No. 4 thought
16 everyone heard it, but I don't know if that will prove to be
17 true. I don't want to unnecessarily taint the juror or raise
18 the concern of a taint by sort of quoting back the statement
19 to them unless -- I mean, if they say -- look, if it's clear
20 that they didn't hear anything like this, but we're just going
21 to have to take it step by step. Because obviously if they
22 heard anything like this, what they heard is going to be
23 important to help determine whether we agree with what Juror
24 No. 4 said or whether we agree with what Juror No. 3 said in
25 terms of exactly what was said and what was meant by it. So

1 the only caution I would have is I think it is still helpful
2 to perhaps have a discussion if there's further questions
3 because I don't want to unnecessarily inject anything into a
4 juror's mind if at least it appears that they didn't hear any
5 of this. Obviously if they've heard something we're going to
6 dig into it and find out what was said. So my plan would be
7 to find out if they heard this statement, to understand how it
8 was made to help determine whether it was a culturally biased
9 statement or whether it was an interpretation of what was said
10 by a witness. And then also to the extent that they had any
11 understanding this statement was made, whether it has any
12 impact on their ability to be fair and impartial.

13 Does anyone have any views on that approach?

14 **MR. CRAWLEY:** I guess, Your Honor, I'm trying to
15 understand better. Would the Court be inclined to just
16 inquire again of Juror 4 maybe as to who she heard? I mean,
17 who she may know heard the statement to maybe narrow down the
18 pool or is the Court more inclined to ask one by one, each
19 juror "Did you hear anything like this?" I think our concern
20 is that to your earlier point, we would want to narrow it down
21 and maybe see if there are like three or four people that she
22 definitely could say they were present, they heard it, maybe
23 there was even a discussion about it that they were kind of
24 taken aback by it. And that would kind of condense this
25 process a little bit.

1 And then as Mr. Hawks has indicated, would it make sense
2 to in the alternative, have all of the jurors, just point
3 blank ask the question. My only hesitation with that is I
4 think the Court touched upon -- Mr. Hawks maintains that maybe
5 a conversation or a question about were there any comments
6 made in reference to generalizations about Jamaicans and
7 perceptions about Jamaicans, but I just don't want to open up
8 Pandora's box. I would want to kind of narrowly deal with
9 this and try to examine maybe two or three people that she
10 says "Hey" -- because I don't know if the Court agrees with
11 me, but I think if there are two or three at least that
12 support her position, that's enough. I don't think we need all
13 12 to understand that at that point if you believe those three
14 or four additional individuals, that that's a significant
15 number of people corroborating her statement.

16 **THE COURT:** Well, does anyone agree or disagree with
17 my view that if someone heard the statement, we need to make
18 an inquiry to confirm that it's not adversely affected them?

19 **MR. CRAWLEY:** We agree.

20 **THE COURT:** So part of it is determining who those
21 people are.

22 **MR. CRAWLEY:** Exactly.

23 **THE COURT:** And again, based on what Juror No. 4
24 said, she thought everyone heard it. Although again, it
25 wasn't clear -- it sounded like it was perhaps made in passing

1 to someone else, but still in deliberations. So there is the
2 question of how many people actually heard it.

3 Does the Government have a view on this?

4 **MS. GROSSI:** Your Honor, I believe the Government
5 thinks that we should poll every juror because of that
6 statement and make sure that they are able to be fair and
7 impartial in this jury process and not just try to limit it to
8 a certain amount of people that Juror No. 4 said. As the
9 Court just reminded us, she did say that everyone stopped
10 talking and heard that comment.

11 **THE COURT:** Here's what I think I'll do. It's a
12 little more cumbersome. Mr. Nieto, anything you want to add?

13 **MR. NIETO:** Yes, Your Honor. Naturally I'm going to
14 suggest a hybrid of resolutions.

15 **THE COURT:** Of course.

16 **MR. NIETO:** If Your Honor were inclined to voir dire
17 a few of the jurors to get confirmation as to whether this
18 statement was made, if Your Honor believes that this statement
19 was, in fact, made, it is the position of Taeyan Williams that
20 that juror then be excused. If the Court wished to do that,
21 then perhaps the voir diring of the jurors, the remaining
22 jurors to ensure that that statement did not negatively
23 influence their ability to be fair and impartial seems wholly
24 appropriate. That was just our suggestion, for whatever that's
25 worth to the Court.

1 **MR. CRAWLEY:** And we concur on behalf of Scott
2 Williams. And to again restate this, Your Honor, my earlier
3 concern was that if we get into too much of this back and
4 forth, we may cause the jurors to feel as if they can't trust
5 one another and then not be honest. If this was actually said,
6 as painful as it may be, it may be an honest reflection of
7 this individual which is something that is good. That's the
8 positive that came out is that we learned about this because
9 we could have had a scenario where we went through a verdict
10 and as the Court just touched upon, we learned about it six
11 weeks after trial. So I just don't want them to feel uneasy
12 about having the ability to express one another.

13 **THE COURT:** Well, I think there's going to be some
14 uneasiness one way or the other now. That's kind of where we
15 are.

16 What I was going to suggest, though, which I think is
17 perhaps a little bit in line with what Mr. Nieto said, is I'm
18 going to ask Juror No. 4 to come back briefly to tell us who
19 specifically knows about this. Because I think my questions
20 to those individuals might be a little bit different if my
21 understanding is that they heard the statement as opposed to
22 having no sense. I also want to just ask her if there's any
23 possibility there's a misunderstanding here in her mind as to
24 effectively the explanation we got from Juror No. 3, whether
25 that's a possibility. I'm not assuming that's the case, in

1 fact I-- but I just want to have that on the record, her view
2 of what is that. Because that's the kind of question I might
3 ask other jurors now that I know that that's at least one
4 interpretation of what was going on.

5 So I'm going to bring Juror No. 4 back to ask about that
6 and then also try and get more detail on who heard this and
7 that may affect the order and what I say to these individuals.
8 I think on the one hand I think there's something clean about
9 going in numerical order so it doesn't look like the jurors
10 are being singled out for any reason. At the same time, the
11 questions might be different. So if there's a very clear
12 sense that there's several people we should start with, then I
13 might do that along the lines of what the defense is
14 suggesting.

15 So why don't we call back Juror No. 4.

16 **(Juror No. 4 reentered the courtroom.)**

17 **THE COURT:** Ma'am, sorry to bring you back again,
18 but I had a couple follow-up questions to get clarification
19 on. First off, I think what you told us was this statement,
20 the culturally biased statement that was allegedly made, I
21 think you said you thought everyone heard it. But were there
22 several people who you know for certain heard it and that
23 you've discussed it with them, either the writing of the note
24 or otherwise?

25 **JUROR NO. 4:** There was others that brought it up

1 today, and even said something to Juror No. 3 in the room.

2 **THE COURT:** Okay. And which jurors are those by
3 number, if you can recall?

4 **JUROR NO. 4:** I don't know their numbers.

5 **THE COURT:** You don't recall just looking here where
6 they sat?

7 **JUROR NO. 4:** The two that sat here and here.

8 **THE COURT:** 7 and 8, okay.

9 **JUROR NO. 4:** And then several that were on the back
10 row.

11 **THE COURT:** 7 and 8, okay.

12 **JUROR NO. 4:** I know I heard it, 7 and 8. I'm not
13 sure if 5 heard it, but I know several in the back row also
14 heard it.

15 **THE COURT:** Okay, but you can't pinpoint exactly
16 which ones. The ones who actually may have brought it up and
17 said something about it, who were those?

18 **JUROR NO. 4:** 7, 8. I believe he may be No. 10 or
19 11.

20 **THE COURT:** It's a little unprecise. 10 is the
21 person who had to move seats.

22 **JUROR NO. 4:** So it was 11 then.

23 **THE COURT:** 11, okay. And my other question is, it's
24 been suggested that to the extent the juror made a statement
25 along the lines of "We all know about the Jamaicans, they chop

1 people up," that it's been suggested that that may have been a
2 reference even if it was not an exact reference, but a
3 reference to what Mr. Musa said as opposed to his own views.
4 Is there any -- in your view, is that a possible explanation
5 for what was said or is it not possible?

6 **JUROR NO. 4:** I believe when someone brought it up
7 to him he tried to relate it to that, but in the context of it
8 being said initially, that's not how it was brought up.

9 **THE COURT:** Okay. So he did say that he was trying
10 to refer back to the witness, but you weren't convinced by
11 that explanation?

12 **JUROR NO. 4:** That was after a couple people brought
13 it up and said, you know, "That's not fair for you to use
14 that" and then he was like, "Well, that's what they said."
15 So--

16 **THE COURT:** Okay. And you didn't take that as a
17 convincing explanation?

18 **JUROR NO. 4:** No, due to the other -- other ways
19 he's carrying himself, his demeanor and other issues that have
20 arose in deliberations, I don't --

21 **THE COURT:** Well, I just want to make sure that
22 we're separating out people who are uncooperative which is one
23 thing, or actions that are uncooperative, from actions or
24 statements that reflect some sort of cultural bias. So does
25 the fact that in your view this person has been uncooperative,

1 does that affect your interpretation of his statement or do
2 you just understand from the context of the statement --

3 **JUROR NO. 4:** From the context of the statement. So
4 the uncooperativeness, that was discussed. And as a jury as a
5 whole, we have discussed that and tried to come to an
6 agreement on how we should further handle things and that has
7 been set aside.

8 **THE COURT:** So if it was suggested that perhaps the
9 statement is being reported and/or being interpreted in a way
10 because people don't find him to be cooperative and would like
11 to get him replaced, do you agree with that statement or not?

12 **JUROR NO. 4:** I don't believe they want him replaced
13 because he's uncooperative, no. I believe people have
14 expressed that they would like him replaced because his bias,
15 he's -- there has been other statements that I can't quote
16 directly that have suggested, but it was like smaller things
17 in side conversation that weren't directly in deliberations.

18 **THE COURT:** As best you can tell, what were those
19 statements?

20 **JUROR NO. 4:** It was just -- it was -- the best I
21 could say without just going into what we discussed in
22 deliberations would be "I feel how I feel."

23 **THE COURT:** But were these other statements related
24 to Jamaicans or other groups?

25 **JUROR NO. 4:** Yes, yes.

1 **THE COURT:** Okay. And then given your -- you've said
2 that you don't believe a statement was made just as a
3 paraphrase of a witness, but was actually an expression of a
4 viewpoint. Is there anything else you can tell me about what
5 makes you reach that conclusion, anything he either said or
6 how it was said?

7 **JUROR NO. 4:** I guess I would say other comments
8 that were made outside of deliberations that were made in
9 independent conversations prior to us deliberating.

10 **THE COURT:** That relate to Jamaicans or something
11 else?

12 **JUROR NO. 4:** Yes.

13 **THE COURT:** But you can't give me any detail as to
14 what those statements were?

15 **JUROR NO. 4:** Not without going into, I guess,
16 opinions and what people would like to --

17 **THE COURT:** Well, I mean, I think on the one hand I
18 think it is helpful not to reveal the specifics of
19 deliberations, but if there were specific statements made like
20 the one you reported where just exhibits of viewpoint, that is
21 something that you can and should tell us about.

22 **JUROR NO. 4:** I guess Juror No. 3 just feels like
23 due to a specific person's culture, that impacts the way they
24 -- their actions or how they would react in a situation.
25 That's just their view and they don't want to --

1 **THE COURT:** Okay, so that's what you at least think
2 the other statements reference, even if you can't specifically
3 tell me -- is it that you can't recall exactly what was said
4 or that you think what was said is going to provide more
5 information about the actual deliberations?

6 **JUROR NO. 4:** I think it's going to provide more
7 information about the deliberations.

8 **THE COURT:** Why don't we do this: Anything else from
9 counsel on this?

10 **MR. CRAWLEY:** Nothing on behalf of Mr. Scott
11 Williams.

12 **MR. GUILLAUME:** Nothing for Taeyan Williams, Your
13 Honor.

14 **MS. GROSSI:** Nothing from the Government.

15 **THE COURT:** Okay. Thank you, ma'am, again, for
16 coming back. Hopefully this is the last time for you, but
17 again, I'd ask you just to try to keep our discussions --
18 don't discuss them with the jury while we're potentially
19 talking to other jurors. Thank you very much.

20 **(Juror No. 4 returned to the jury room.)**

21 **THE COURT:** Okay, thank you. Everyone please be
22 seated. I mean, based on that and the fact that there may be
23 other statements, I think it's obviously a stronger case for
24 what Juror No. 4 originally said. At the same time, I do think
25 for the record we need to talk to some other jurors, partly to

1 just, again, get a better handle on exactly what was said and
2 what it meant, but also given that she's identified at least
3 three or four others who she thinks heard the statement I
4 think I at least need to inquire of them how it impacts their
5 ability to be fair and impartial.

6 Does anyone disagree with that or do you have any sense
7 of what the order should be or do you have a preference?

8 **MR. CRAWLEY:** Your Honor, my recollection was 1, 7,
9 8 and 11. So I would just suggest we go in that order.

10 **MS. GROSSI:** Your Honor, the Government is a little
11 concerned about singling out certain jurors and not others and
12 the jurors seeing that only certain people are coming out
13 here. So the Government recommends voir diring, unfortunately,
14 everyone. I know that will be time consuming, but to try to
15 keep the jurors -- the potential for their deliberations to
16 continue intact.

17 **THE COURT:** Okay. Well, I'm going to, again, take
18 this step by step. I think we have the happy circumstance that
19 one of the people on the list is Juror No. 1, so I'm going to
20 start with Juror No. 1 which could mean a lot of things. It
21 could also mean that we're just going in numerical order. So
22 why don't we call in Juror No. 1.

23 **(Juror No. 1 entered the courtroom.)**

24 **THE COURT:** So ma'am, we've been calling some jurors
25 in here now. I just wanted to ask you some additional

1 questions just to get some clarification on some things. So
2 first off, my understanding, I've been informed through a note
3 that there was a juror who may have made a statement that
4 could be viewed as culturally biased. Have you heard any
5 statements like that as a juror in the deliberations or within
6 among the jury?

7 **JUROR NO. 1:** In that sense I guess you can
8 interpret it that way.

9 **THE COURT:** Why don't you move the microphone a
10 little closer to you. Thank you.

11 **JUROR NO. 1:** I did hear something in that range
12 from a juror.

13 **THE COURT:** What did you hear?

14 **JUROR NO. 1:** How can I say it -- basically what I
15 heard was basically we were talking, of course, and basically
16 they said "You know, that's how they are. That's how they
17 act. You should expect that" basically.

18 **THE COURT:** And do you know who the "they" was that
19 was being referenced, to your understanding?

20 **JUROR NO. 1:** It was in regards to -- because we
21 were, of course, deliberating and there was a couple in
22 evidence that was going back and forth and they said, "That's
23 how Jamaicans act." That was it.

24 **THE COURT:** And which juror said this, do you know?
25 Not by name, but by number, or where they sit in the jury box?

1 JUROR NO. 1: I think it was 3.

2 THE COURT: Okay, so you were 1, you sat at the far
3 end so the person who was two next to you?

4 JUROR NO. 1: It was 3.

5 THE COURT: The one two away from you?

6 JUROR NO. 1: Yes.

7 THE COURT: Okay. Did you hear any other statements
8 along those lines?

9 JUROR NO. 1: Along -- no, that was the only one.

10 THE COURT: Okay. So you mentioned Jamaicans. Did
11 he or anyone else make any statements that exhibited a
12 particular viewpoint about Jamaicans or how they act?

13 JUROR NO. 1: No, that was the only one.

14 THE COURT: Okay. Now having heard that statement,
15 does that affect your ability to be fair and impartial in this
16 case?

17 JUROR NO. 1: Did it affect? No.

18 THE COURT: So to the extent that someone had that
19 viewpoint or had that viewpoint about people from Jamaica
20 generally, does that create any negative view in your mind
21 about people from Jamaica, based on the fact that someone said
22 that?

23 JUROR NO. 1: No, no, sir.

24 THE COURT: Do you believe that you can fairly and
25 impartially judge the evidence in this case even having heard

1 that statement?

2 **JUROR NO. 1:** Yes, sir.

3 **THE COURT:** Okay. It's been suggested that to the
4 extent certain statements were made about Jamaicans, that they
5 may have just been sort of a reference back to what a witness
6 may have said during the trial, but not actually that person's
7 viewpoint. When you heard that statement, did you understand
8 that to be an expression of the juror's viewpoint, personal
9 viewpoint, or an expression of something that was said during
10 the trial by somebody else?

11 **JUROR NO. 1:** I think it was something personally,
12 but I'm not 100 percent sure because of the way it was told is
13 basically "that's how they act." You know, "that's basically
14 what they're supposed to do."

15 **THE COURT:** Did you or any other jurors talk about
16 this statement at any point?

17 **JUROR NO. 1:** Did I speak to anybody? First thing
18 no, I just heard it because I was sitting right next to them.

19 **THE COURT:** Okay. Any follow-up?

20 **MR. CRAWLEY:** Not on behalf of Mr. Scott Williams.

21 **MR. GUILLAUME:** Not on behalf of Taeyan Williams,
22 Your Honor.

23 **MS. GROSSI:** Nothing from the Government. Thank you.

24 **THE COURT:** Okay. Thank you, ma'am. You can return
25 back to your -- ma'am, before you go just I would appreciate

1 it if you not discuss the questions and answers here with
2 other jurors.

3 **JUROR NO. 1:** Okay.

4 **THE COURT:** Thank you.

5 **(Juror No. 1 returned to the jury room.)**

6 **THE COURT:** So my thought is that I think at this
7 point we should voir dire all the jurors because we heard a
8 second statement. Now it's probably something that Juror No. 4
9 may have also heard, it was consistent with her statement that
10 there were other things that she couldn't really pinpoint, but
11 I think Juror No. 1 has clearly identified there may be other
12 statements that were made that we need to hear about and
13 verify who heard them and whether there was any impact on
14 them. So I think we should go in numerical order. Obviously
15 with Jurors No. 7, 8 and 11 I can perhaps be a little more
16 forward leaning in terms of the statement, but even this one I
17 don't believe she heard it come out the same way Juror 4 did.
18 And I didn't want to give her that language just because it
19 just injects another piece of information. I did ask if there
20 was anything else that was said and she said "No."

21 So does anyone object to that approach, the more
22 open-ended approach rather than giving them a direct quote
23 unless they clearly indicate that that statement was made?

24 **MR. NIETO:** And Your Honor, this is prior to making
25 the determination as to what to do with Juror No. 3?

1 **THE COURT:** Well, I mean, we could do this in two
2 rounds. I sort of feel like once we have them here we should
3 also ask what impact any statements had on them. I think based
4 on Juror No. 4 and No. 1, I'm highly inclined to strike Juror
5 No. 3. But again, I think since I think I need to inquire of
6 others as well because there may have been other statements
7 that I'm not going to make a final decision right now.

8 **MR. NIETO:** Absolutely, Your Honor. From our
9 perspective if the Court felt that excusing Juror 3 made sense
10 at this point it would allow Your Honor's voir dire to perhaps
11 be more pointed with regards to the remaining jurors to make
12 sure that any statements made in that context with regards to
13 their ability to be fair and impartial, but what Your Honor is
14 suggesting makes sense as well.

15 **THE COURT:** Okay. Anybody have any other thoughts?

16 **MS. GROSSI:** Your Honor, the Government is inclined
17 to dismiss number 3 based on hearing from Juror No. 1, but we
18 do think going through in numerical order to voir dire the
19 jury makes sense. And I just wanted to ask Your Honor, are
20 you planning to do the same thing with the remaining jurors,
21 not quote back what was said, but ask just generally?

22 **THE COURT:** I think that's the right approach.

23 **MS. GROSSI:** The Government agrees.

24 **THE COURT:** I'm also going to be very clear I want
25 to hear all statements like that, so that they're not just

1 forgetting to talk about that one if they heard it. But I
2 don't know -- I don't want to quote a statement that they may
3 not have actually heard and inject yet another piece into
4 that.

5 **MS. GROSSI:** Yeah, the Government agrees with that,
6 Your Honor.

7 **THE COURT:** Mr. Crawley, do you agree or disagree
8 with that?

9 **MR. CRAWLEY:** We generally agree, Your Honor, with
10 the Court's approach. We would just simply add to the
11 Government's position and I think Mr. Taeyan Williams'
12 counsel, we think at this point that Juror No. 3 should be
13 just excused for cause at this point.

14 **THE COURT:** I understand. Okay, why don't we call in
15 Juror No. 2.

16 **(Juror No. 2 entered the courtroom.)**

17 **THE COURT:** Thank you, everyone. Please be seated.
18 For the record, this is Juror No. 2. Sir, thank you very much
19 for coming in here. If you don't mind moving closer to the
20 microphone or moving that microphone closer to you. I did want
21 to ask because there's been some reports of a statement or one
22 or more statements made among jurors that could be viewed as
23 culturally biased in some fashion. I want to ask if you heard
24 any such statements during the time that you've been in the
25 jury room with the other jurors.

1 **JUROR NO. 2:** I think one was made.

2 **THE COURT:** And what -- to the best of your
3 recollection, what was the statement?

4 **JUROR NO. 2:** That was made? "That's what the
5 Jamaicans does."

6 **THE COURT:** And when you say that, what were they
7 referring to?

8 **JUROR NO. 2:** As far as cutting people up.

9 **THE COURT:** I see. Now it's been suggested that to
10 the extent something like that was said it might have been --
11 did you perceive that to be the personal viewpoint of the
12 juror?

13 **JUROR NO. 2:** I mean, I heard it, but I really
14 didn't like really hear the whole conversation. I wasn't
15 paying attention to it really.

16 **THE COURT:** Okay. It's been suggested that to the
17 extent something like that was said it might have just been a
18 reference to something that was said during the trial by a
19 witness. Does that sound like it could be a fair explanation
20 or does it sound like that's not what was going on?

21 **JUROR NO. 2:** It kind of sounds like he said "That's
22 what they do."

23 **THE COURT:** And was there any way as hearing that
24 that it sounded like it might have been a reference to what a
25 witness might have said? I'm not saying any witness said that

1 exact word, but --

2 **JUROR NO. 2:** I'm not sure.

3 **THE COURT:** You're what?

4 **JUROR NO. 2:** I said I'm not for sure.

5 **THE COURT:** I mean, between the two possible
6 explanations that it's a personal viewpoint versus something a
7 witness said, do you have a sense?

8 **JUROR NO. 2:** I would say personal viewpoint.

9 **THE COURT:** Okay. And just for the record to be
10 clear, I mean, do you know which juror this was by where they
11 sat in the box?

12 **JUROR NO. 2:** Juror 3.

13 **THE COURT:** Okay. Any other statements by him or
14 anyone else along the lines of a statement about the culture
15 of Jamaicans or anyone else?

16 **JUROR NO. 2:** No.

17 **THE COURT:** Okay. Do you know who else heard that?
18 Was it the entire jury or a small group?

19 **JUROR NO. 2:** Maybe, I can't think of the juror that
20 sat beside me in there in the room there. But I know one sat
21 across the table.

22 **THE COURT:** Okay.

23 **JUROR NO. 2:** I can't give their numbers.

24 **THE COURT:** But others did, you just can't pinpoint
25 who?

1 **JUROR NO. 2:** Yes.

2 **THE COURT:** Having heard that statement, do you
3 agree with any of the views as to this understanding of how
4 Jamaicans --

5 **JUROR NO. 2:** I don't -- I don't let their opinion
6 affect my opinion.

7 **THE COURT:** So do you share that opinion? I sort of
8 need to ask, do you share the opinion of Juror No. 3 on that
9 point, to the extent it was his opinion?

10 **JUROR NO. 2:** No.

11 **THE COURT:** Having heard it discussed, does that
12 give you any negative view of Jamaicans?

13 **JUROR NO. 2:** No, no.

14 **THE COURT:** Does that statement having been made
15 affect your ability to be fair and impartial as a juror in
16 this case?

17 **JUROR NO. 2:** No, no.

18 **THE COURT:** Okay. Anything else?

19 **MR. CRAWLEY:** Not on behalf of Mr. Scott Williams.

20 **MR. GUILLAUME:** Not on behalf of Taeyan Williams.

21 Thank you.

22 **MS. GROSSI:** Not from the Government.

23 **THE COURT:** Okay. Thank you very much, sir. I'd ask
24 you if you could just refrain from discussing our conversation
25 with the jurors, the content of it just because we may talk to

1 other jurors and we just want to make sure they're just giving
2 us their own viewpoint and not something they heard here, if
3 that's okay. Thank you very much.

4 (Juror No. 2 returned to the jury room.)

5 THE COURT: Okay, I think I would move to Juror No.
6 5, unless everyone -- does anyone want me to approach it
7 differently with Juror No. 5 than I did with Juror No. 2?

8 MS. GROSSI: No. I thought that was the correct way
9 to handle it, Your Honor.

10 MR. CRAWLEY: Your Honor, on behalf of Mr. Scott
11 Williams the only concern we do have is at this point I think
12 everyone has expressed to the Court that we're in agreement
13 with removing Juror No. 3 and we would just ask the Court to
14 the extent that the statement was heard, does it impact your
15 ability to sit here fairly and whatever questions the Court
16 wishes to ask in that vein.

17 MR. GUILLAUME: I have no objection to the way it's
18 been done, Your Honor.

19 THE COURT: Well, you're not concerned, Mr. Crawley,
20 that there might be other statements that we need to make
21 sure? Because I'm not convinced those are the only statements
22 we've heard, unfortunately.

23 MR. CRAWLEY: I thought the Court was asking about
24 that particular juror. But if the Court is asking in general
25 about other bias-related statements, no. We have no objection

1 to that. But if it's just focusing on number 3 since we seem
2 to all be in agreement, I don't think we need to put more time
3 and energy in that related to number 3. If the Court is
4 inquiring as to whether or not there may have been other
5 statements of bias made --

6 **THE COURT:** Well, true, but I think I need to
7 understand what they heard from Juror No. 3, what their
8 perception is to be able to confirm that if they can say that
9 they are not affected by it. So I think -- so I don't think
10 we're on different pages.

11 **MR. CRAWLEY:** I understand.

12 **THE COURT:** Why don't we go to Juror No. 5 then.

13 **(Juror No. 5 entered the courtroom.)**

14 **THE COURT:** Thank you. Please be seated. Thank you
15 for joining us, sir. This is Juror No. 5. I need to ask you
16 some questions just to get some clarification of a few things.
17 So it's been brought to my attention that there may have been
18 one or more statements made among the jury that could be
19 viewed as exhibiting a cultural bias and I wanted to ask if
20 you believe you've heard any such statements.

21 **JUROR NO. 5:** I have heard what I would call that.
22 However, I will say it was within -- there was -- I can't
23 remember, sorry, I can't remember exactly what the context was
24 but it was in relation to someone's testimony where someone
25 took a statement that a witness had made and then extrapolated

1 it out to an entire cultural group, if that makes sense.

2 **THE COURT:** Okay, so just generally or can you tell
3 us what was the statement you're referring to, just as best
4 you can quote it even though I know it's not going to be
5 precise.

6 **JUROR NO. 5:** That the witness made?

7 **THE COURT:** What the juror said.

8 **JUROR NO. 5:** It was something to the effect of
9 "Jamaicans chop people up, it's what they do." Something
10 along those lines.

11 **THE COURT:** And then when you said it was related to
12 a witness' testimony, are you saying that that was a
13 recounting of what the juror recalled the testimony to be or
14 was it taking the testimony and making -- adding an additional
15 statement to that, as you perceived it?

16 **JUROR NO. 5:** As I perceived it it was adding to the
17 original statement. It was to the effect of I think it was --
18 if I'm allowed to say the witness' name --

19 **THE COURT:** The witness? The witness, yes.

20 **JUROR NO. 5:** It was during Alfred Musa's testimony
21 said something to the effect of "That's why they call me Saw,
22 I chop up bodies." Something like that. So he heard that and
23 said, "You guys heard that" and then he added the statement
24 about the Jamaicans.

25 **THE COURT:** Okay. So to the extent it might have

1 been suggested that that was just a recap of what the juror
2 heard the witness say, do you agree with that possible
3 explanation or do you believe it was more along the lines of
4 adding an additional viewpoint on top of what a witness said?

5 **JUROR NO. 5:** From my understanding of what was said
6 it sounded more like an addition, rather than just a pure
7 recap.

8 **THE COURT:** Beyond that statement -- and just for
9 the -- which juror was this? Where did they sit in the box?

10 **JUROR NO. 5:** Juror 3. So he would sit one over
11 from the lady next to me.

12 **THE COURT:** Okay. Did you hear any other statements
13 that might relate to a cultural viewpoint or bias other than
14 that one from anyone?

15 **JUROR NO. 5:** No, not that I can recall from anyone
16 else.

17 **THE COURT:** So having heard that statement, does
18 that affect your ability to be fair and impartial as a juror
19 in this case?

20 **JUROR NO. 5:** Does it affect my ability? No,
21 because like if I see something like that as an addition, I
22 see that as a potential bias on their part and I don't -- I
23 very much try to not let that factor. Because again, I am
24 trying to be impartial and I would say that I've succeeded in
25 doing that in all other deliberations that we have done.

1 **THE COURT:** Okay. So that's your attempt to do that,
2 but do you believe based on what you heard there that you can
3 and will be fair and impartial going forward?

4 **JUROR NO. 5:** I believe I will be, yes.

5 **THE COURT:** Okay. Anything else for this juror?

6 **MS. GROSSI:** Not from the Government.

7 **MR. CRAWLEY:** Not on behalf of Mr. Scott Williams.

8 **MR. GUILLAUME:** Not on behalf of Mr. Taeyan
9 Williams.

10 **THE COURT:** Thank you, sir. And I'd ask if you
11 could just not discuss what we discussed just so we can keep
12 all conversations individual. Thank you very much.

13 **JUROR NO. 5:** Of course.

14 **(Juror No. 5 returned to the jury room.)**

15 **THE COURT:** Thank you, everyone. Please be seated.
16 I think we'll next call Juror No. 6 in.

17 **(Juror No. 6 entered the courtroom.)**

18 **THE COURT:** Good morning or good afternoon, ma'am.
19 Thank you for joining us. I just have a few questions I want
20 to ask you about if you could move to the microphone or move
21 it closer to you.

22 It was brought to my attention there may have been a
23 statement, one or more statements made among the jury that
24 could be viewed as exhibiting some kind of cultural bias or
25 viewpoint. Did you hear any statement that you viewed in that

1 way?

2 **JUROR NO. 6:** I did not hear the statement itself,
3 but I heard it being repeated by others who heard it. So I did
4 not hear it.

5 **THE COURT:** Okay. And just to make sure we're
6 talking about the same thing, what did you hear being
7 repeated?

8 **JUROR NO. 6:** What was repeated was about how a
9 certain culture of people are. Should I state?

10 **THE COURT:** To the extent you recall what people
11 have said.

12 **JUROR NO. 6:** The statement that was repeated was
13 "You know how Jamaicans are." That's what was repeated by
14 those whom were closest and heard it.

15 **THE COURT:** And who did they hear it from, to your
16 recollection?

17 **JUROR NO. 6:** They heard it from I believe number 3.

18 **THE COURT:** Okay. Did anyone who repeated it, did
19 they indicate that they agreed with it or they were just
20 repeating it?

21 **JUROR NO. 6:** It was brought up once the juror was
22 confronted about that.

23 **THE COURT:** Okay.

24 **JUROR NO. 6:** And multiple people confirmed that
25 they heard it.

1 **THE COURT:** Okay. Now you only heard it secondhand
2 it sounds like.

3 **JUROR NO. 6:** Secondhand.

4 **THE COURT:** Based on as it was characterized to you
5 -- first of all, when you said that people brought it up, did
6 you hear any explanation from Juror No. 3 as to this statement
7 or not?

8 **JUROR NO. 6:** It was -- Juror No. 3 attempted to say
9 that he was going off of what had been presented in court and
10 we asked to provide evidence, but that wasn't provided. So it
11 appeared more as an opinion, a personal opinion.

12 **THE COURT:** Okay. And that's what people were saying
13 about it or that's what you perceived it to be based on what
14 you heard?

15 **JUROR NO. 6:** That's what I perceived it to be.

16 **THE COURT:** So having heard this opinion, do you
17 share any of those views yourself?

18 **JUROR NO. 6:** Absolutely not.

19 **THE COURT:** Does the fact that they were discussed
20 and that a juror raised this viewpoint, does that affect your
21 ability to be fair and impartial in judging the evidence?

22 **JUROR NO. 6:** No.

23 **THE COURT:** Do you have a sense of whether it had
24 any impact on any other juror's ability to be fair and
25 impartial?

1 **JUROR NO. 6:** No, I believe that the juror who
2 confronted number 3 was upset that that was actually brought
3 up because it implies a bias.

4 **THE COURT:** I see, okay. Anything else for this
5 juror?

6 **MR. GUILLAUME:** Not on behalf of Taeyan Williams,
7 Your Honor.

8 **MS. GROSSI:** Not from the Government.

9 **MR. HAWKS:** Not on behalf of Scott Williams, Your
10 Honor.

11 **THE COURT:** Thank you. I'd ask you not to discuss
12 our conversation with any of the jurors just so we can have
13 individualized conversations. Thank you very much.

14 **(Juror No. 6 returned to the jury room.)**

15 **THE COURT:** Thank you. Everyone please be seated.
16 We'll move to Juror No. 7.

17 **(Juror No. 7 entered the courtroom.)**

18 **THE COURT:** Thank you, everyone. Please be seated.
19 This is Juror No. 7. You can be seated as well. I'm going to
20 ask you some questions, so if you don't mind moving closer to
21 the microphone, I think that is your regular seat. Sir, there
22 are some questions I need to ask you because it was brought to
23 my attention or at least it was suggested that there may have
24 been a statement made or more than one statement made in the
25 jury room that arguably could be viewed as a culturally biased

1 statement. I wanted to ask if you heard anything that you
2 understood to be potentially culturally biased.

3 **JUROR NO. 7:** Yes, sir.

4 **THE COURT:** And can you tell me to the best of your
5 recollection what was the statement?

6 **JUROR NO. 7:** "You know how those Jamaicans act."

7 **THE COURT:** And which juror, by number, if you
8 recall the number, made the statement?

9 **JUROR NO. 7:** It might be number 2, the older
10 gentleman. 2 or 3. He sits on this side.

11 **THE COURT:** The older one?

12 **JUROR NO. 7:** Yes.

13 **THE COURT:** So now when you heard that statement, did
14 you understand that to be a personal viewpoint? It was
15 suggested it might have been a reference to something said
16 during the trial. Can you tell us how you perceived it?

17 **JUROR NO. 7:** I understood it to be very biased.

18 **THE COURT:** Very biased you said?

19 **JUROR NO. 7:** Very biased.

20 **THE COURT:** So to the extent someone would have
21 suggested that it could have just been paraphrasing what a
22 witness said, do you agree with that?

23 **JUROR NO. 7:** No, no.

24 **THE COURT:** So do you share that viewpoint?

25 **JUROR NO. 7:** No.

1 **THE COURT:** Having heard that statement or the
2 suggestion about Jamaicans, does that affect your ability to
3 be fair and impartial in judging this case?

4 **JUROR NO. 7:** Doesn't affect mine, no.

5 **THE COURT:** Okay. There was also a suggestion made
6 that people may have raised this point because that juror has
7 not been cooperative. Do you believe that anyone would raise
8 that because of the lack of cooperation or do you think it's
9 because the statement was actually made and reflected a
10 personal viewpoint?

11 **JUROR NO. 7:** His statement shows complete bias and
12 he's not being cooperative.

13 **THE COURT:** Okay. Anything else for this juror?

14 **MR. HAWKS:** No, Your Honor.

15 **MR. GUILLAUME:** No, Your Honor.

16 **MS. GROSSI:** No, Your Honor.

17 **THE COURT:** Thank you, sir. I'd ask you just to
18 avoid discussing our conversation with the rest of the jurors
19 so I can have a specific conversation directly with particular
20 jurors.

21 **JUROR NO. 7:** Yes, sir.

22 **THE COURT:** Thank you.

23 **(Juror No. 7 returned to the jury room.)**

24 **THE COURT:** Juror No. 8.

25 **(Juror No. 8 entered the courtroom.)**

1 **THE COURT:** Thank you. Everyone could be seated. You
2 can sit right there in seat No. 7, one over from your regular
3 seat. I'm going to ask you a series of questions, ma'am, so
4 if you don't mind getting closer to the microphone. It's been
5 suggested to me that there may have been a statement made or
6 one or more statements made that reflected some kind of
7 arguable cultural bias. Did you hear any statements like that
8 among the jurors?

9 **JUROR NO. 8:** Yes, sir. I did.

10 **THE COURT:** And what to your recollection did you
11 hear?

12 **JUROR NO. 8:** So we were all discussing the phone
13 call that Mr. Scott had on the phone. I can't remember who it
14 was with or he was -- he was talking to Musa and they said
15 something about "That's why they call me Saw." And then the
16 juror -- I don't want to say this, this is rude, but the juror
17 then says that "You know, we know Jamaicans, like they're
18 known for cutting people up" or something along those lines.
19 That's what was said.

20 **THE COURT:** So besides that statement, did you hear
21 anything else that you could view as culturally biased?

22 **JUROR NO 8:** I don't know if I'm allowed to divulge
23 this, but as we're trying to go over answers or come to an
24 agreement because -- it's not supposed to be our opinion, it's
25 supposed to be based off facts.

1 **THE COURT:** Right. And let me just ask you to focus
2 on whatever the statement was and then if I need more context,
3 I'll ask you for the context.

4 **JUROR NO. 8:** So then no, no. If it's just on that
5 statement, then no.

6 **THE COURT:** But was there something else that was
7 another statement that indicated cultural bias in some fashion
8 besides the one you referenced?

9 **JUROR NO. 8:** No, no.

10 **THE COURT:** So having heard that statement -- first
11 of all, had you ever heard that thought before?

12 **JUROR NO. 8:** Me? No.

13 **THE COURT:** Do you agree with it?

14 **JUROR NO. 8:** No, absolutely not.

15 **THE COURT:** Does the fact that you heard this
16 statement impact your ability to be fair and impartial?

17 **JUROR NO. 8:** Absolutely not.

18 **THE COURT:** It was suggested perhaps that that
19 statement was not a personal opinion, but more of a recounting
20 of what the juror thought the witness said. Does that sound
21 like a possible explanation?

22 **JUROR NO. 8:** No, no. That's why I wanted to give
23 more context, but --

24 **THE COURT:** I see, okay. Anything else for this
25 juror?

1 **MR. HAWKS:** No, Your Honor. Thank you.

2 **MS. GROSSI:** No, Your Honor.

3 **MR. GUILLAUME:** No, Your Honor.

4 **THE COURT:** Thank you. Thank you, ma'am. You can go
5 back. I'd ask you to just please refrain from discussing our
6 conversation with the other jurors.

7 **(Juror No. 8 returned to the jury room.)**

8 **THE COURT:** Thank you, everyone. Please be seated.
9 So much as everyone has been making suggestions on exactly how
10 to do this, I'm not planning to make a ruling on Juror No. 3
11 until we're done with the voir dire. However, I'm going to
12 take a short moment because I'm asking the clerk to call the
13 next alternate and see how quickly they can get here, just to
14 let you know what's going on. It might be more efficient to do
15 that before we continue with this because this is going to
16 take a few minutes.

17 **MR. CRAWLEY:** Can I take a quick bathroom break?

18 **THE COURT:** You probably could. I'm not sure if
19 she's calling or getting the next one in here.

20 **MR. CRAWLEY:** I'll wait, Your Honor. It's not a
21 problem. Although I think Mr. Hawks can handle this.

22 **THE COURT:** If everyone on your team is willing to
23 have Mr. Hawks handle it, I don't have a problem with that. I
24 know this is a longer than expected process.

25 **(Juror No. 9 entered the courtroom.)**

1 **THE COURT:** This is Juror No. 9. And sir, thank you
2 for joining us. I ask you to speak into the microphone. I have
3 a few questions for you.

4 **JUROR NO. 9:** Yes, sir.

5 **THE COURT:** It's been suggested to me that there may
6 have been a statement made in the jury room, or one or more
7 statements that reflected some kind of cultural bias or
8 viewpoint. Did you hear any kind of statement that you think
9 might fall into that category?

10 **JUROR NO. 9:** Yes, sir.

11 **THE COURT:** And can you tell me to the best of your
12 recollection what the statement was?

13 **JUROR NO. 9:** It was as I recall about Jamaicans
14 butchering up people or something along that line.

15 **THE COURT:** Okay, if you could just move a little
16 closer to the microphone.

17 **JUROR NO. 9:** Yes, sir.

18 **THE COURT:** Now when you heard that statement --
19 first of all, do you recall which juror made the statement by
20 number, if you know the numbers or can point out what seat
21 they seat in?

22 **JUROR NO. 9:** Juror -- I'm trying to remember -- No.
23 3.

24 **THE COURT:** Okay. And it's been suggested that that
25 statement might have been more of a reflection of what he

1 understood a witness' statement to be as opposed to a personal
2 viewpoint. How did you perceive it? Did you perceive it as a
3 personal viewpoint of the juror or a recap of what was said
4 during the testimony?

5 **JUROR NO. 9:** It was recapped, but in my opinion I
6 thought he actually might have -- it was bringing some of his
7 opinion. And that, to me, wasn't clearly determined from the
8 evidence that was presented or -- yes.

9 **THE COURT:** Was there -- first of all, this
10 viewpoint that you heard, do you share that viewpoint in any
11 way?

12 **JUROR NO. 9:** No, sir. No, sir.

13 **THE COURT:** Having heard it discussed in some
14 fashion, does that affect your ability to be fair and
15 impartial in judging the evidence in this case?

16 **JUROR NO. 9:** No.

17 **THE COURT:** Okay. Any follow-up from any of the
18 counsel?

19 **MR. GUILLAUME:** No, Your Honor.

20 **MR. HAWKS:** No, Your Honor, thank you.

21 **MS. GROSSI:** No, Your Honor.

22 **THE COURT:** Thank you, sir. You can go back. I'm
23 going to ask you if you can to refrain from discussing our
24 conversation with the other jurors.

25 **JUROR NO. 9:** Yes, sir.

(Juror No. 9 returned to the jury room.)

THE COURT: So we'll move to Juror No. 10 who was originally Juror No. 13.

(Juror No. 10 entered the courtroom.)

THE COURT: Sir, thank you for joining us. I'm going to ask you a few questions, if you don't mind getting close to the microphone and speaking up.

It has been suggested to me that there may have been a culturally biased statement or something that may have been perceived as such made among the jurors and I wanted to ask you if you heard anything that falls into that category.

JUROR NO. 10: I don't believe I heard the exact statement that was made by the actual juror, but I did hear the references and that particular juror didn't dispute it.

THE COURT: Did not dispute it you said?

JUROR NO. 10: Yeah, did not dispute it.

THE COURT: When you say "the references," I'm sorry, go ahead.

JUROR NO. 10: I was just saying it didn't seem like it was disputed that it wasn't said. So --

THE COURT: So you heard other jurors referring back to him about that?

JUROR NO. 10: Yes.

THE COURT: And to your recollection what was the statement? Just to make sure we're talking about the same

1 thing.

2 **JUROR NO. 10:** It had to do with Jamaicans.

3 **THE COURT:** Okay. Do you remember any other details
4 of that or not?

5 **JUROR NO. 10:** Basically that they were known for
6 doing certain things, "cutting up people" or something like
7 that.

8 **THE COURT:** Okay. Now it's been suggested that this
9 possibly could have just been a recounting of what a witness
10 may have said as opposed to a personal viewpoint. How did you
11 understand it based on what you've heard?

12 **JUROR NO. 10:** Again, not that I heard the actual
13 statement come out of that juror's mouth so I can't really say
14 what their mindset was when they were saying it, but there was
15 a defense that it was just being repeated because it was said
16 by the defendant.

17 **THE COURT:** Okay. And you heard the juror say that
18 in response?

19 **JUROR NO. 10:** Yes, I did hear the juror.

20 **THE COURT:** And based on what you heard, did you
21 agree or disagree with that interpretation, or you don't know?

22 **JUROR NO. 10:** I don't really have an opinion either
23 way, because I didn't hear the original statement.

24 **THE COURT:** Okay.

25 **JUROR NO. 10:** So I can't tell you like what

1 prompted it or what their mindset was for what that person
2 said.

3 **THE COURT:** And this was which juror, numerically?

4 **JUROR NO. 10:** This was Juror -- between Juror No. 3
5 or 4 and Juror No. --

6 **THE COURT:** 3 was a man, 4 is a woman.

7 **JUROR NO. 10:** Okay, the woman 4 and then I believe
8 Juror No. 2 or 3 --

9 **THE COURT:** When you said "the woman," she's the one
10 who made the statement or she's the one who confronted him
11 about the statement?

12 **JUROR NO. 10:** She's the one that confronted him
13 about it.

14 **THE COURT:** And the person who actually made the
15 statement?

16 **JUROR NO. 10:** Was the older gentleman.

17 **THE COURT:** Okay. Having heard this statement even
18 just recounted, does having heard that viewpoint, is that a
19 viewpoint that you share in any way?

20 **JUROR NO. 10:** I do not express that viewpoint, Your
21 Honor.

22 **THE COURT:** Does having heard it expressed, does
23 that affect your ability to be fair and impartial in judging
24 the evidence in this case?

25 **JUROR NO. 10:** Um, I don't believe so, no.

1 **THE COURT:** Okay. Any uncertainty about that?

2 **JUROR NO. 10:** About being fair and impartial, based
3 on that statement?

4 **THE COURT:** Yes.

5 **JUROR NO. 10:** No, I don't have any answer about
6 that.

7 **THE COURT:** Anything else for this juror?

8 **MR. GUILLAUME:** No, Your Honor.

9 **MR. HAWKS:** No, Your Honor.

10 **MS. GROSSI:** No, Your Honor.

11 **THE COURT:** Okay. Thank you, sir. If you could just
12 refrain from discussing our conversation with the other jurors
13 I'd appreciate it.

14 **(Juror No. 10 returned to the jury room.)**

15 **THE COURT:** Please be seated. I will move to Juror
16 No. 11.

17 **(Juror No. 11 entered the courtroom.)**

18 **THE COURT:** Everyone please be seated. Welcome back.
19 Sorry, I wanted to ask you a few questions if you don't mind
20 trying to speak into the microphone and loudly, if you can.

21 It's been suggested there may have been a statement made
22 in the jury room that reflects or could reflect some kind of
23 cultural bias. Is there any statement that you recall hearing
24 along those lines?

25 **JUROR NO. 11:** Yes, sir. I don't know, like, how

1 detailed you want me --

2 **THE COURT:** Tell me as best you can what the
3 statement itself was.

4 **JUROR NO. 11:** So what was said from what I
5 overheard is that "This is what Jamaicans do, you know, they
6 chop people up and stuff like that." It was very, like, biased
7 and so that's why he -- it was along the lines of that. I
8 don't want to with hearsay or nothing like that, but when I
9 was sitting and I was kind of, like, to myself, I heard him
10 conversating with another juror. And it was along the lines
11 of, "you know, that's just what they do. This is what
12 Jamaicans do all the time. They chop people up and throw them
13 away, hide them," stuff along the lines of that.

14 **THE COURT:** And just to be clear, by number, do you
15 recall which juror it was who made the statement?

16 **JUROR NO. 11:** Yes, sir.

17 **THE COURT:** Which number or which seat in the jury
18 box here?

19 **JUROR NO. 11:** The one that made the statement?

20 **THE COURT:** Yes.

21 **JUROR NO. 11:** Juror No. 3.

22 **THE COURT:** 3? Okay. And it's been suggested that
23 perhaps that might have just been a statement whether accurate
24 or not, of what a witness said as opposed to his own
25 viewpoint. Do you have -- having heard it, do you perceive it

1 one way or the other?

2 **JUROR NO. 11:** It was a very general, like,
3 statement that was coming from him. He wasn't stating what
4 someone else -- that was, like, his personal bias.

5 **THE COURT:** Okay. That viewpoint, do you share that
6 viewpoint in any way?

7 **JUROR NO. 11:** What, about what he said?

8 **THE COURT:** Yes.

9 **JUROR NO. 11:** Absolutely not.

10 **THE COURT:** Having heard it said in the context of
11 the jury room, does that affect your ability to be fair and
12 impartial in judging the evidence in this case?

13 **JUROR NO. 11:** Like in terms of, like, my viewpoint?

14 **THE COURT:** Yes. Will it impact you in a way that
15 will make it harder to be fair and impartial?

16 **JUROR NO. 11:** No, absolutely. Again, I stand
17 completely objective to the whole thing. It was just that was
18 just what I overheard and I didn't -- that, to me, is on the
19 more biased standpoint of it. That's mere subjective and not
20 objective so that to me it was just unacceptable to hear that.

21 **THE COURT:** Okay. Any follow-up from any of the
22 counsel?

23 **MR. GUILLAUME:** No questions.

24 **MR. HAWKS:** No, sir.

25 **MS. GROSSI:** No, sir.

1 **THE COURT:** Okay. Thank you very much, sir. If you
2 could just refrain from discussing our conversation with the
3 other jurors I'd appreciate it. Thank you very much.

4 **(Juror No. 11 returned to the jury room.)**

5 **THE COURT:** Everyone please be seated. We'll get
6 Juror No. 12, who is the last one.

7 **(Juror No. 12 entered the courtroom.)**

8 **THE COURT:** Sir, thank you for joining us here. If
9 you don't mind trying to speak into the microphone, I just
10 have a few questions for you.

11 It's been suggested that there may have been a statement,
12 or one or more statements made in the jury room that could be
13 interpreted as reflecting some kind of cultural bias. Did you
14 hear any statements like that?

15 **JUROR NO. 12:** Yes.

16 **THE COURT:** And could you just tell us as best you
17 recall what the statement was, specifically?

18 **JUROR NO. 12:** It was kind of biased towards
19 Jamaicans and assumptions and what they're associated in
20 doing.

21 **THE COURT:** And do you recall what the bias -- what
22 the assumption was?

23 **JUROR NO. 12:** It was going back to the testimony
24 about -- that Alfred Musa did -- or had. The discussion was
25 conclusions made off of that.

1 **THE COURT:** Okay. And do you recall which juror made
2 the statement, if by number or by where they sit in the jury
3 box?

4 **JUROR NO. 12:** I don't recall the number. It's the
5 older gentleman. I think it's 3.

6 **THE COURT:** Okay.

7 **JUROR NO. 12:** Yeah.

8 **THE COURT:** Front row?

9 **JUROR NO. 12:** Yeah.

10 **THE COURT:** Okay, so any other statements that you
11 thought reflect some kind of cultural bias besides that one?

12 **JUROR NO. 12:** No, it was just along those lines and
13 kind of reiterated throughout the --

14 **THE COURT:** There was some suggestion that it might
15 -- that statement might just be a repetition or a recounting
16 of what the juror thought the witness said. Do you think
17 that's possible or do you think it was a statement of his own
18 personal view, the way you understood it?

19 **JUROR NO. 12:** The way I understood was it was their
20 personal view about kind of pre, like pre-assumptions or
21 pre-notions that they made on their own.

22 **THE COURT:** Is that a viewpoint that you share in
23 any way?

24 **JUROR NO. 12:** No, it's not.

25 **THE COURT:** Does the fact that it was discussed or

1 said in the jury room, does that affect your ability to be
2 fair and impartial in judging the evidence in this case?

3 **JUROR NO. 12:** No. I create my own opinions.

4 **THE COURT:** Okay. So that doesn't make it more
5 difficult for you to fairly judge the evidence?

6 **JUROR NO. 12:** No.

7 **THE COURT:** Okay. Any follow-up for this juror?

8 **MS. GROSSI:** Not from the Government.

9 **MR. HAWKS:** No, Your Honor.

10 **MR. GUILLAUME:** No, Your Honor.

11 **THE COURT:** Thank you, sir. You can go back to the
12 jury room. If you can just refrain from discussing our
13 conversation with the other jurors, I'd appreciate it. Thank
14 you.

15 **(Juror No. 12 returned to the jury room.)**

16 **THE COURT:** So we have heard from all 12 of the
17 jurors. I am prepared to make a finding that this statement
18 was made by Juror No. 3 along the lines of -- well, the
19 original quote from the letter was "We all know about
20 Jamaicans. They chop people up." Whatever the specific
21 language was, we had several jurors giving the same or similar
22 statement or account of the statement. Others had less detail
23 or heard it secondhand, but no other juror, and frankly
24 including Juror No. 3, really disputes that a statement like
25 that was made.

1 Juror No. 3 offered the interpretation that he was just
2 recounting what a witness, Mr. Musa, had said. I don't find
3 that explanation to be credible for two reasons: One is no
4 other juror agreed with that, even though they on the one hand
5 can't get into his head, but they were there, heard the
6 context. I think Juror No. 5 in particular perhaps put it best
7 in that even if there was a reference to a witness' statement,
8 it was injecting a personal viewpoint on top of what some
9 testimony was, at best. It was not according to the jurors, a
10 statement that was purely just a recounting, even an imperfect
11 recounting of witness testimony.

12 And the second reason why I make that finding is that
13 having looked at the rough transcript of Mr. Musa's testimony,
14 there's no point at which he makes a statement like that. I
15 think he references that he heard from I believe Scott
16 Williams that Scott Williams was from Jamaica, otherwise
17 there's no reference to Jamaica or Jamaicans in the rest of
18 his account on this topic. He did refer to his account of what
19 happened to Mr. Smothers, but at no point does he say -- does
20 Mr. Musa say that he understood that Jamaicans had a tendency
21 to do anything in particular, much less what was alleged to
22 have happened to Mr. Smothers. So even assuming that the juror
23 was imperfectly recounting the testimony, it's really not
24 close to what the testimony was. As I said, at most it's an
25 add on as Juror No. 5 said to that statement to inject a

1 personal viewpoint.

2 And I would add, even if he honestly believed that he had
3 heard that, given that he's so far off from the statement,
4 that I think raises questions about whether he injected a
5 cultural bias into what he heard. So even if he didn't intend
6 to make a biased statement, I think the fact that he
7 interpreted a witness' statement in this fashion, made a leap
8 of a viewpoint that even the witness didn't express, raises
9 questions about whether he has a bias that would prevent him
10 from continuing to serve.

11 So I do find the statement was made. It is one that
12 reflects a cultural bias on the part of the juror against
13 Jamaicans, an assumption that they engaged in the type of
14 behavior referenced in the statement as a general matter.

15 As I said, under *Peña-Rodriguez v. Colorado* and other
16 cases, including *McClinton* from the 7th Circuit which I
17 referenced, the Constitution doesn't permit a jury verdict
18 based on any kind of cultural bias like this or racial bias,
19 national origin bias. And so on that basis and based on
20 *McClinton* -- well, it wasn't done exactly the same way in that
21 case, but it's clear that one option that the Court has is to
22 strike that juror and replace that juror with the alternate.
23 So I am planning to do that subject to any objections from the
24 parties.

25 I will note that the alternate has been contacted. She's

1 apparently on her way and probably will be here by around
2 2:00. Luckily the jury is or was having lunch during some of
3 this so they didn't lose as much time as they otherwise would.
4 So my plan would be to again, they obviously can't deliberate
5 until the eleventh juror arrives. The other finding I'm going
6 to make -- or the twelfth juror arrives.

7 The other finding I'm going to make although I'll hear
8 any objections to it, is based on the voir dire of the other
9 11 jurors, I find that all of them, even though most heard
10 some version of this statement first or secondhand, I credit
11 their testimony that they can continue to be fair and
12 impartial in judging this case, even having heard the
13 statement. Several frankly whether it's what they said or how
14 they said it, were clearly offended by the statement and
15 didn't agree with it in any fashion at all. And no one agreed
16 with it in any fashion as all, but several were clearly
17 offended by the statement. So I credit all their statements
18 that they can continue as jurors fairly and impartially even
19 though the statement was made in their presence first or
20 secondhand.

21 Does anyone have any objection to that approach?

22 **MS. GROSSI:** No objection, Your Honor.

23 **MR. GUILLAUME:** No objection, Your Honor.

24 **MR. HAWKS:** No objection, Your Honor.

25 **THE COURT:** So what will happen is we will wait for

1 what was originally Juror No. 14 to arrive. Well first, sorry,
2 two steps. I'll invite Juror No. 3 back in and excuse Juror
3 No. 3 in a relatively polite way. I think I've made the
4 findings I need to make on the record now. And then the jury
5 is suspended from their deliberations.

6 We will have Juror No. 14 arrive. When she arrives we
7 will seat her as Juror No. 3. I believe I should call them in
8 as a group and instruct them as is in the original
9 instructions, but really it's just in the alternate
10 instruction so it's not actually written down in anything they
11 have that they need to restart their deliberations as much as
12 they would prefer not to perhaps, that they need to start from
13 the beginning, give the new juror the opportunity to fully
14 deliberate with them from the start. And with that
15 instruction, they'll get started again and continue or start
16 that new process over again. But I think I do need to instruct
17 them on that. I think the easiest way to do it is to have them
18 come in the courtroom. So when we know that they're all here
19 I'll ask everybody to come in to do that.

20 I'll leave it to counsel. It's a little bit ministerial.
21 If you have at least one person per team and are comfortable
22 with that I'm okay with that, but obviously everyone who has
23 been here certainly there's nothing wrong with you all being
24 here, in fact that's preferable, but certainly not required
25 given that it's an unusual circumstance.

1 Ms. Grossi?

2 **MS. GROSSI:** Yes, Your Honor. As to the notes that
3 we've received so far, it's the Government's understanding
4 we're going to start from scratch with regard to the notes as
5 well. There is one note that talks about one of the folders,
6 Exhibit 417B being empty. Can we provide a copy pursuant to
7 counsel's consent as to that particular exhibit?

8 There's another question about Wickr messages, but I
9 think the Government's view is that we not respond to that
10 note just because they need to start afresh.

11 And the other piece I just wanted to mention when you say
12 that they have to start deliberating again, I don't know if
13 you want to tell them that the notes also are starting fresh
14 again. Just in case they do have that question, they need to
15 write it again in a note.

16 **THE COURT:** Okay. Any thoughts on that from the
17 defense?

18 **MR. HAWKS:** Your Honor, Scott Williams wouldn't
19 object to responding to the Wickr messages, the exhibit number
20 understanding they're going to deliberate again, but it
21 doesn't seem to address any substantive matter of deliberation
22 that they know what the number is.

23 **MR. NIETO:** And Your Honor, we concur with the
24 Government's position. We had been in communications about if
25 they were to pose the same question again precisely the

1 exhibit number, so we can provide that to the Court if the
2 Court wishes to --

3 **THE COURT:** Has everyone agreed on those numbers?

4 **MS. GROSSI:** Yes. All the parties agree on those
5 numbers, Your Honor.

6 **THE WITNESS:** So your suggestion is we give them a
7 copy of Exhibit 417B and then in terms of the Wickr questions,
8 do we agree on what the exhibit numbers are?

9 **MS. GROSSI:** We do have an agreement as to the Wickr
10 -- the exhibit numbers, Your Honor.

11 **THE COURT:** What numbers are those?

12 **MS. GROSSI:** 504, 507, 511, 512 and 515.

13 **THE COURT:** Okay. Well, without -- if no one objects
14 to this, it's all going to kind of happen in the same
15 timeframe anyways that I would send a note back saying "You'll
16 be provided 417B and then the messages you referenced are
17 those exhibits." And then again, whether it's before or after
18 we excuse Juror No. 3 I'm not sure it makes a difference, but
19 on the one hand I do think the notes start over technically.
20 But given that these are not particularly substantive and my
21 guess is they would ask for it anyways, that if we can speed
22 up the process, again without anyone's objection given that
23 technically maybe we should wait for that, but I think this is
24 a practical matter. If everyone agrees we can give them this
25 information, I think we should.

1 **MR. HAWKS:** No objection from Scott Williams.

2 **MR. NIETO:** No objection.

3 **MS. GROSSI:** No objection from the Government.

4 **THE COURT:** So we'll do that and we'll send that
5 note back.

6 **MR. NIETO:** Your Honor?

7 **THE COURT:** Yes.

8 **MR. NIETO:** Forgive me. In the abundance of
9 caution, would the Court consider it appropriate upon the
10 arrival of what would be juror -- the new Juror 3 to voir dire
11 her as to ensure she has complied with the Court's
12 instructions when they were dismissed? I'll defer to the
13 Court. I just wanted to raise that if the Court found it
14 appropriate.

15 **THE COURT:** What do you think from the Government's
16 side?

17 **MS. GROSSI:** We defer to the Court, Your Honor.

18 **THE COURT:** Does Mr. Hawks or Mr. Crawley --

19 **MR. HAWKS:** Your Honor, we wouldn't object to that
20 voir dire.

21 **THE COURT:** Okay. I mean, I think we can do that.
22 What we will do is is we would bring her in first and then
23 bring in the whole jury after that to instruct on the
24 deliberation process. It occurs to me that -- it occurs to me
25 there might be some value in somehow communicating to the

1 jurors that they shouldn't discuss this whole episode with the
2 new juror. I'm just trying to understand -- trying to think
3 about how to do that. Because she's naturally going to want to
4 know why she's here.

5 **MR. NIETO:** I'm sorry, Your Honor, and I'm sure when
6 she comes in Your Honor could just explain precisely the
7 reason why we have alternates, sometimes things arise and
8 jurors can't continue to serve.

9 **THE COURT:** Well, she knows that. I'm more worried
10 about the other jurors sort of saying "Hey" -- if she says
11 "Well, what happened?" they might -- absent anything else
12 they might say, "Well here's what happened because" --

13 **MS. GROSSI:** Your Honor, the Government agrees there
14 is a concern for that. And perhaps when we're instructing the
15 jury to say that "You are not permitted to talk about anything
16 that happened in deliberations prior to this juror arriving,
17 including the reasons for Juror No. 3 being dismissed."

18 **THE COURT:** I'm okay with that. Anybody have any
19 concern with that?

20 **MR. HAWKS:** Your Honor, I understand the
21 Government's concern. I guess Scott Williams, we don't share
22 it and I defer to the Court, Your Honor.

23 **THE COURT:** Does anybody object if once we excuse
24 Juror No. 3 that I bring the other 11 in and just tell them
25 that? Ordinarily we speak to a jury as a whole, but this is

1 part of the voir dire process. We've been doing the voir dire
2 process so I think if I were to tell them "We're going to
3 bring in the alternate, she'll be here relatively soon, don't
4 talk about the reasons for this with the alternate," anybody
5 have any problem with that?

6 **MS. GROSSI:** No objection from the Government.

7 **MR. NIETO:** Thank you, Your Honor.

8 **THE COURT:** Why don't we do that. So we'll start
9 first with Juror No. 3.

10 **MR. CRAWLEY:** On another matter, Your Honor, what
11 are we doing Friday? Are they expected to be here Friday?
12 I'm not sure I understand the schedule.

13 **THE COURT:** So we only gave them a schedule up to
14 Thursday. So at that point they're in overtime in terms of --
15 I mean --

16 **(Juror No. 3 entered the courtroom.)**

17 **THE COURT:** Thank you. Everyone please be seated.
18 So sir, Juror No. 3, just for the record?

19 **JUROR NO. 3:** Yes, sir.

20 **THE COURT:** As you understand, we had an inquiry
21 about this statement that was made and the issue that that
22 might raise. And having discussed it with or having had some
23 discussion with certain jurors and then also having discussion
24 with counsel, I'm going to excuse you from the jury.

25 Now I understand you've given me an explanation for the

1 statement and I'm not -- to you I'm not saying one way or the
2 other what to make of it, but I think just the fact that this
3 statement was made and there was a conversation about it puts
4 us in a position where I think the best course of action is to
5 excuse you from the jury just to avoid any concerns that
6 anyone might have about how we're operating here. And so the
7 fact that -- I know you've given me an explanation, but I
8 think what was said was such that certain jurors could
9 interpret it in a certain way and everyone on the outside can
10 interpret it in a certain way that could raise some questions
11 about how fair and impartial this whole process has been and I
12 don't want to take that chance. So I'm going to excuse you
13 from the jury. I want to thank you for all your efforts in
14 this trial. I know it was a very long trial to sit through and
15 I don't know if you're relieved or disappointed in this, but I
16 assure you that we appreciate your service in this trial and
17 I'd ask you to leave your notes with the court reporter -- or
18 with the courtroom deputy. And we wish you well.

19 Now I would like to take the opportunity if you're
20 willing to after we're done with this session to just briefly
21 meet with you to thank you in person. So with that, I'm going
22 to excuse you.

23 **JUROR NO. 3:** You haven't listened to where that
24 comment came from in context, okay? Because it was made in
25 reference to what another juror said, but you didn't give me

1 the opportunity to explain that to you. But that's okay.
2 Okay? And it's sad that it's come to this because I'm not
3 going to agree under pressure. I have what I looked at as the
4 evidence and I came to my decision of what the verdict was.
5 And just because it wasn't what they want, if they want to
6 come in and make up stuff -- that's what was said, but it was
7 made in a different context. Okay?

8 **THE COURT:** No, I understand. And again, regardless
9 of whether I find what the specific context was, I think we're
10 in a situation where it's necessary to excuse you just again,
11 if for no other reason just to make sure everyone understands
12 and considers the trial to be fair and impartial. So I'm not
13 -- again, I know you've done your best here as best you can as
14 a juror and so I credit you for that and understand where
15 you're coming from on this, but it's a decision I have to make
16 in this case.

17 **JUROR NO. 3:** Sure.

18 **THE COURT:** Thank you very much. So again, I will --
19 if you want to meet briefly we can.

20 Now I did want to ask -- I think you said something along
21 the lines of there was --the statement came from some other
22 person, from the witness?

23 **JUROR NO. 3:** Yes, there was.

24 **THE COURT:** From the witness or from someone else?

25 **JUROR NO. 3:** What, the statement? The context?

1 **THE COURT:** Yes.

2 **JUROR NO. 3:** The context came from another juror,
3 and that's what I'm saying.

4 **THE COURT:** Okay, tell me what the context was.

5 **JUROR NO. 3:** Okay, just to make it clear, okay,
6 during the deliberations, what we're talking about right now
7 is one of the charges in the case, okay, where that context --

8 **MR. CRAWLEY:** Your Honor, may we approach?

9 **THE COURT:** Okay.

10 **(Counsel approached the bench.)**

11 **MR. CRAWLEY:** Your Honor, I guess on behalf of Mr.
12 Scott Williams we're concerned that we're going to start to go
13 down a rabbit hole that may open up more discussions about the
14 jury deliberations and what certain jurors are thinking about
15 the evidence. And I don't believe that's what we're intending
16 to do. I think what we were trying to limit this to was just a
17 very narrow inquiry into whether or not there was some bias.
18 But keeping perceptions of the evidence, how they were
19 intending to vote potentially, how that was met with some
20 resistance by others potentially I don't think that's
21 appropriate at this time, Your Honor.

22 **MR. GUILLAUME:** I would agree, Your Honor,
23 respectfully. I would respectfully agree.

24 **THE COURT:** So you do not want further inquiry on
25 what the juror --

1 **MR. GUILLAUME:** Correct.

2 **MS. GROSSI:** Your Honor, I think we would -- I
3 understand the defense point, but I think we do need to figure
4 out if there is another juror with bias. So I don't know if
5 there's like -- because it seemed like there might be another
6 juror. And I understand your point. I don't want to hear the
7 deliberations, but I think that's what the Court was trying to
8 do is trying to figure out if there's another juror with bias.

9 **THE COURT:** Well, I do think -- I do think there is
10 a record upon which I can and have made the -- well,
11 implicitly made the finding when I referred to the other
12 jurors being able to stay that there were no other statements
13 offered by any other jurors. I mean, when I asked the jurors,
14 I asked about anybody's bias and not simply statements made by
15 this juror, Juror No. 3. And nobody identified anything other
16 than this statement or one similar to by juror No. 3. So I
17 think we have questioned all the jurors on whether any other
18 juror made a statement that was biased and they're all
19 answering in the negative. So I have that on the record
20 already.

21 So are you saying then that with that record you still
22 want me to inquire further as to whether this juror has any
23 other information he wants to offer on this point? And again,
24 it's not clear to me whether he's talking about a biased juror
25 or just the context that led him to make the statement which

1 could have nothing to do with bias, but just a position that
2 may have triggered him to make the statement.

3 **MR. CRAWLEY:** I think the Court -- on behalf of Mr.
4 Scott Williams, I think the Court has made its decision. He's
5 been excused. I don't think that there's anything meaningful
6 that can be gained from him sharing with us more information
7 at this point, specifically because the Court addressed each
8 juror as to their perception of this particular statement, the
9 impact that it had on each juror and whether or not the
10 statement was, in fact, made. And to the extent that by my
11 recollection, at least nine of the eleven that were asked
12 confirmed that they heard the statement and maybe two said
13 that the statement was relayed to them and that they heard the
14 confrontation concerning the statement, all of them
15 essentially said that there was some reference to a statement
16 that was culturally biased in their perception and it was
17 based on this gentleman's opinion, not the evidence that was
18 given.

19 So I don't know what other context could be a benefit to
20 this Court, especially since there were independent
21 individuals. When I say "independent," meaning other jurors
22 beyond the one that wrote the note that basically did not give
23 any background information to suggest that there was some
24 other animus or some other factor that was at work here. So I
25 just don't want us to get into trying to read into a lot of

1 different narratives and especially not trying to gauge now
2 where the jury is in this deliberation process, how they feel
3 about the evidence. I think that just creates more problems
4 than we need to deal with.

5 **THE COURT:** Okay, so you're of the viewpoint that
6 we've identified all potentially biased jurors. You're content
7 that we don't need further inquiry to identify that?

8 **MR. CRAWLEY:** And I think this is a very astute jury
9 that basically if there were issues, because I think one of
10 the questions Your Honor asked was were there other things of
11 that sort that could have raised an issue and they said pretty
12 much even as it relates to this juror that there wasn't. It
13 was just that comment that they were dealing with and they
14 were all somewhat taken aback, the ones that heard it. And
15 the ones that didn't hear it, they were more concerned with
16 the impression that it was more personal opinion based on his
17 views, not the actual testimony.

18 **THE COURT:** So you are affirmatively requesting and
19 would waive any further questioning to try to uncover any
20 additional potential biased statements or --

21 **MR. CRAWLEY:** At this time, Your Honor.

22 **MR. GUILLAUME:** I am as well, Your Honor, on behalf
23 of Taeyan Williams.

24 **THE COURT:** Does the Government still want me to
25 proceed?

1 **MS. GROSSI:** Your Honor, I just think that there--
2 and I understand not going into deliberations, there does seem
3 like there's not a closing of the loop. I don't think we asked
4 this juror, in particular, if he knew about any other
5 culturally biased statements. And so maybe making the
6 question very specific as to cultural bias, as opposed to any
7 type of jury deliberation.

8 **MR. CRAWLEY:** May I have the Court's indulgence to
9 speak with the Government real quickly, Your Honor?

10 **THE COURT:** Okay.

11 **(Counsel conferred off the record.)**

12 **THE COURT:** Go ahead.

13 **MS. GROSSI:** Your Honor, I think the Government is
14 still in a position to just ask a very specific question as to
15 cultural bias and that doesn't mean that we have to then poll
16 the jury again, but like as to the credibility finding of the
17 other jurors and this juror, I think we can make that finding
18 after asking this particular juror that question. The
19 Government just wants to make a clear record as to what he's
20 talking about with regard to the context of another juror
21 saying something and whether that was something that they
22 should not have said with regard to cultural bias.

23 **THE COURT:** Okay. I am concerned about opening the
24 door to other parts of the deliberations and it's not totally
25 clear from what he's saying whether he's referring to a

1 culturally biased statement or whether he's just referring to
2 some portion of deliberations that led him to make the
3 statement.

4 I will -- I will ask one question as to whether he is
5 aware of any culturally biased statements by any members of
6 the jury. I did get the -- I'm not completely confident that I
7 asked him that question beginning in a broad open ended way
8 given that he was the focus of the questions. Does anyone
9 recall if I did?

10 **MS. GROSSI:** I don't believe so, Your Honor. I don't
11 think that was asked. I think we were specifically focused on
12 the question or the statement that was in the jury note,
13 rather than like if he heard anybody else say anything.

14 **THE COURT:** Okay. Well that's what I'll try to do.
15 I'm going to try to keep it as limited as possible. Thank you.

16 **MS. GROSSI:** Thank you, Your Honor.

17 **(Counsel returned to their trial tables.)**

18 **THE COURT:** Sorry, sir for the delay. I think I need
19 to stay away from the specific sort of positions on the
20 evidence and information that the jurors may have taken. I did
21 just want to confirm though, because you started to refer to
22 something, are you aware of any specific statements by any of
23 the other jurors that reflected a cultural bias of some kind?

24 **JUROR NO. 3:** Yes.

25 **THE COURT:** Okay, what did you hear?

1 **JUROR NO. 3:** What I heard was when we were at the
2 point where it came up to a point of where Mr. Smothers' body
3 may have been, another juror came out with a comment which
4 prompted my comment that, "You know, there is a pig farm and
5 they eat meat and bones." And it just, it just took me by
6 surprise. And that's what prompted me, "Are you telling me
7 that you're expecting that?" And that was my comment that
8 "Jamaicans are cutting people up." And then it was like
9 "Well, you know, you know, there's no body." And they're
10 speculating where the body might be. And I thought that was
11 inappropriate in itself.

12 **THE COURT:** So I'm sorry, this "pig farm" comment,
13 can you give that to me a little more specifically?

14 **JUROR NO. 3:** There's a reserve that's close where
15 they breed pig farms for agriculture.

16 **THE COURT:** In this area?

17 **JUROR NO. 3:** No, in the area of Laurel, close to
18 where the motel is and all the other information that was
19 gathered about the positions of the people.

20 **THE COURT:** So you're saying another juror referred
21 to that in terms of trying to assess what might have happened
22 to the body, that you said there's a pig farm that they do
23 what at?

24 **JUROR NO. 3:** They implied that they might have
25 taken his body up there because pigs eat the meat and the bone

1 when they say they couldn't find the body.

2 **THE COURT:** Did he refer to that as something that
3 Jamaicans might do or he just referred to that's what might
4 have happened?

5 **JUROR NO. 3:** That came up and to the point whereas
6 the word "Saw" came in. And that was the comment that was made
7 by Mr. Mercer at that time. And I just felt it was just
8 improper. Like I said, I sit there and I listen to the
9 evidence. I listen to them present the evidence. And they're
10 the ones -- I'm not the jury foreman, she's the one that's
11 presenting the evidence and I make my decision based on that.

12 **THE COURT:** Okay. So just by number, do you know
13 which juror made this comment or which seat in the box here?

14 **JUROR NO. 3:** It would be the one you had just --
15 heavysset gentleman. I can't remember what juror number he is,
16 but with the --

17 **THE COURT:** Front row or back row, do you recall?

18 **JUROR NO. 3:** I think he sits in the back row. The
19 heavysset gentleman with the tattoos on his arm. I can't
20 remember.

21 **THE COURT:** There's a larger individual who sat
22 where you sit right now.

23 **JUROR NO. 3:** Is that where he is?

24 **THE COURT:** Well, there's one person there, but I
25 don't recall whether there's someone in the back row who --

1 **JUROR NO. 3:** I wasn't paying attention to where
2 everybody was sitting at.

3 **THE COURT:** Okay.

4 **JUROR NO. 3:** But like I said, you just can't make
5 comments like that. You know, and I made the reference to is
6 that what you're implying? Not so much as that's what I was
7 saying. And as I stated before, what was said then has
8 nothing to do with the issue of what they're complaining about
9 now where I won't agree with them on.

10 **THE COURT:** Okay, I understand.

11 **JUROR NO. 3:** Totally separate.

12 **THE COURT:** I understand. I understand. Well again,
13 thank you for your service. Again, I never am excited to
14 change course in the middle, but again, based on where we are
15 now I am going to have to excuse you. So I appreciate you --

16 **JUROR NO. 3:** I don't have a problem with that.

17 **THE COURT:** No, I understand that. And thank you
18 very much for your service.

19 **JUROR NO. 3:** You're welcome.

20 **(Juror No. 3 exited the courtroom and was excused.)**

21 **THE COURT:** Thank you. Everyone please be seated.
22 So just to close a loop, as I heard that statement that he's
23 attributing to a juror, I did not perceive that to inject any
24 kind of cultural or racial bias into this, it was actually
25 more just a statement about the geography of the area. To the

1 extent anybody did at that point based on our prior
2 discussions with the jurors would have been Juror No. 3 then
3 injecting a cultural bias into this issue. So I am not of the
4 view that I need to inquire further of jurors about that
5 particular statement.

6 Does anyone agree or disagree with that?

7 **MS. GROSSI:** The Government agrees, Your Honor.

8 **MR. GUILLAUME:** Taeyan Williams agrees, Your Honor.

9 **MR. CRAWLEY:** We agree. Thank you, Your Honor.

10 **THE COURT:** Okay. So my understanding is the
11 alternate juror is in the building. I think what we will do is
12 -- I'll wait for Ms. Solomon to come back in terms of
13 logistically how we can make this work. Our options are -- I
14 asked her not to have her join the other jurors yet and so
15 there may be a way we can have the other 11 jurors come in and
16 then bring in Juror No. -- the new Juror No. 3 separately and
17 have them all sit here and I can just sort of more generally
18 say "Look, you know, we're starting fresh here. There should
19 be no discussion of sort of what led to the replacement of the
20 alternate."

21 Does anybody have any problem with that approach or
22 should we do it in two steps, one with the alternate and one
23 with the rest of the jury?

24 **MS. GROSSI:** I'm sorry, Your Honor. What was the
25 question?

1 **THE COURT:** The question was whether we should call
2 in the other 11 jurors first as I had suggested just to tell
3 them not to talk about this issue with the new juror, or now
4 that they're all in the building, we bring them all in
5 together. Not necessarily bring them in as a group, but having
6 the 11 come in and then bring the other person come in to join
7 them and more generally say we're not going to talk about how
8 we got here.

9 **MS. GROSSI:** I think the Government would prefer the
10 first option, putting the 11 here and then bringing the 12th
11 one in, but we defer to the Court.

12 **THE COURT:** Okay.

13 **MR. HAWKS:** Your Honor, Scott Williams has no
14 position on either course.

15 **MR. NIETO:** Your Honor, we will defer to the Court.
16 If the Court is concerned that the new juror may inquire of
17 the other jurors as to what happened, addressing everyone at
18 the same time to say we're just starting afresh may be the
19 cleanest way to ensure they move forward cleanly.

20 **THE COURT:** Okay, thank you.

21 Okay, so we will do that process, but I promised Juror
22 No. 3 I would thank him in person for his service. I'm going
23 to do that first. Don't go far. Do a bathroom break if you'd
24 like, then we'll bring in the 11, I'll tell them what happened
25 in the sense that we've excused 3 and we're not going to

1 discuss when the alternate gets here why we got here. Then
2 I'll bring in the 12th who will be in the next room over and
3 then I'll say, "You're deliberating from the beginning." And
4 I'll say in a more general way, but the others will have it
5 more explicitly I'll say for her benefit that we're not going
6 to discuss how we got to the new alternate arriving. So I'll
7 be back in a few minutes.

8 **(Recess was taken from 1:47 to 1:59 p.m.)**

9 **THE COURT:** As I understand it, we're ready for the
10 11 jurors first, and then once we've had a brief colloquy with
11 them we'll bring in the 12th. Is that right? Okay. So I'm
12 sending back a note that says, "A copy of Exhibit 417B will be
13 provided and the Wickr messages requested are at Exhibits 504,
14 507, 511, 512 and 515."

15 **MS. GROSSI:** That's correct, Your Honor. Thank you.

16 **(Jurors 1-2 and 4-12 reentered the courtroom.)**

17 **THE COURT:** Thank you. Everyone please be seated.
18 Ladies and gentlemen, I wanted to just check in with all of
19 you and report on where we are. As you know, we've had
20 colloquies with you and based on all that, the note I
21 received, as well as the colloquy, I have decided to excuse
22 Juror No. 3 from the remainder of the service in this case.

23 What that means is our alternate, the original Juror No.
24 14 will be joining us. We did make a request for her to get
25 here, so she's actually in the building.

1 Before we bring her in, though -- and I'll give you some
2 instructions to you as a new group with the new alternate, but
3 I wanted to instruct you all to refrain from discussing with
4 the new juror, former Juror 14, new Juror No. 3, the
5 circumstances which led to her returning to be a juror.

6 As you know from my individualized questions, there are a
7 lot of questions about what statements you heard and how they
8 may have impacted you. Obviously if she were to hear these
9 statements even second or third hand, I would need to have
10 that inquiry of her as well. And so as a result, I'm directing
11 you not to discuss -- well, really any of the prior
12 deliberations, but particularly the statement that was made
13 and also the fact that we had a discussion in colloquy about
14 that and the reasons for Juror No. 3's being excused.

15 So that's the instruction I wanted to give you first and
16 then I think we can bring the new Juror No. 3 in. Thank you.
17 Actually, I will also state on the record that I did receive
18 and will return a note to you very shortly on the note about
19 the exhibits, Exhibits 417B and the Wickr messages which you
20 can then include in the evidence. Thank you.

21 **(Previous Alternate Juror No. 14, new Juror No. 3**
22 **entered the courtroom.)**

23 **THE COURT:** Thank you. Everyone please be seated.
24 So for the record, Juror No. 14 has now returned to us. She is
25 now seated as Juror No. 3 and will be referred to such the

1 rest of the way. So welcome back to Juror No. -- new Juror No.
2 3. I did just want to confirm with you that since you left,
3 you have not discussed this case with others, have not done
4 any outside research, have not looked up or read any
5 information about this case anywhere; is that correct?

6 **NEW JUROR NO. 3:** Correct.

7 **THE COURT:** Okay. So we are now reassembled as the
8 jury in this case. Now you may have heard me say when I was
9 dismissing the alternates in the first instance that if we
10 needed an alternate for whatever reason, we would bring that
11 alternate back. And I do want to instruct everyone, both the
12 new juror and the -- the returning juror and the others that
13 we -- I am going to instruct you not to discuss the reasons
14 why we needed a new -- an alternate to come back or the
15 circumstances that led to that. That is not relevant to the
16 discussion. So I'd ask both the new juror not to ask about it
17 and the prior jurors not to provide any information about that
18 to the extent they know anything.

19 Now as I said when the alternates were first excused, on
20 the one hand it's terrific that we have alternates available,
21 but the other rule that we have though is when we have to
22 change the composition of the jury by adding an alternate, we
23 need to restart the deliberations from the beginning. We
24 cannot just have her come in and just assume that everything
25 that was said was known and so forth. So I am directing the

1 jury again to restart the deliberations from the beginning.
2 That means choosing a foreperson if you need to do anything
3 different than was done before, it means reviewing all the
4 testimony and exhibits again as a group. To the extent you've
5 done anything you'll redo that again so that Juror No. 3 is
6 not at a disadvantage. And so any -- you know, you cannot rely
7 on prior discussions or reviews of the evidence as part of
8 your deliberations, you need to start again with that afresh
9 with this new juror.

10 That also means -- although I just mentioned to you that
11 I am returning a note on the exhibits, the question about
12 exhibits that you had, I believe that's the only other note
13 that was outstanding. To the extent there were other requests
14 that were outstanding, you need to reassert anything new that
15 you are waiting for other than that one about the exhibits. I
16 think I've covered it, but if you did, again, because it's a
17 new set of deliberations you need to make those requests
18 again.

19 Anything from counsel before we send the jury off to
20 deliberate?

21 **MS. GROSSI:** Not from the Government.

22 **MR. HAWKS:** No, Your Honor.

23 **MR. GUILLAUME:** No, Your Honor.

24 **THE COURT:** Okay, so thank you again, ladies and
25 gentlemen, for your service. I know this was a little bit of a

1 disruption to the schedule, but you still have a pretty full
2 afternoon ahead of you and we will look forward to hearing
3 from you again.

4 If you're not done by 5:00, please send a note letting me
5 know you're going to leave. I think if it's just a note that
6 you're going to leave or just a note that you arrived I may
7 not respond to it. I may just have the clerk informally tell
8 you that we got it and you're good. If there's any substance
9 to it beyond that, of course I would respond. Thank you very
10 much and we'll see you the next time. Thank you.

11 **(Jury exited the courtroom to continue their**
12 **deliberations at 2:08 p.m.)**

13 **THE COURT:** Okay, anything else? Please be seated.
14 Anything else from anyone before we --

15 **MR. GUILLAUME:** Your Honor, I just had a brief
16 scheduling issue. Mr. Crawley raised it a little bit before.
17 We don't know where the jury deliberations will take us, but
18 assuming we are still going Friday morning, I have -- it's a
19 personal matter, it's a thing at my daughter's school. I
20 don't have to go, but I've requested my client's permission to
21 allow me to attend in the morning. I'll be here in the
22 afternoon, if necessary. But if the Court wants me here, I'm
23 here. It's not a huge deal, but I just wanted to make the
24 request to the Court and tell you that I have the consent of
25 my client, if necessary.

1 **THE COURT:** Sure. Mr. Crawley, was there another
2 issue on schedule?

3 **MR. CRAWLEY:** My schedule is just so bad right now,
4 Your Honor. I could go on and on. I was hoping we wouldn't be
5 here Friday because I do have another matter with an
6 out-of-state client that's scheduled to go to trial soon and I
7 really wanted to try to deal with that.

8 **THE COURT:** Is that an all-day activity or a
9 partial-day activity?

10 **MR. CRAWLEY:** The bigger problem is it may require
11 me to travel, Your Honor. The client is indigent as well, but
12 they're within driving distance. I have the ability to go
13 there and meet with them. That's probably better for all
14 parties, but we're in this trial so if I have to be here, I
15 just have to be here. It's not a -- you know, my first duty is
16 to Mr. Scott Williams. So I just say that to say that if Mr.
17 Williams, as well as Mr. Hawks and the other parties consent
18 to it, I could be available by phone to help Mr. Hawks with
19 any questions. But if it's just a matter of taking up a
20 verdict it may be with the Court 's permission I'll be allowed
21 to deal with that matter. But again, if the Court as Mr.
22 Guillaume has suggested, prefers to have us here, I will be
23 here. That was my concern. I just didn't know. I thought we
24 said no Fridays.

25 **THE COURT:** Well, no. I understand. And maybe it

1 was a little ambiguous once we get past the Thursday which is
2 the dates that we gave the jury.

3 Does the Government have either a view on this or your
4 own request? Because I know that everyone seems to have these
5 requests.

6 **MS. GROSSI:** Your Honor, I can speak for myself. I
7 do have a sentencing on Friday before another judge in this
8 courthouse. But I believe my co-counsel can cover for me, if
9 needed.

10 **THE COURT:** Can cover the sentencing or can cover
11 this matter?

12 **MS. GROSSI:** I can do both, Your Honor.

13 **THE COURT:** At the same time? Well, if it's in the
14 building we can always work it out. I mean, we can either ask
15 the other judge for a slight delay if there's a note or
16 verdict, they would generally understand that. So I'm not
17 concerned about that, in particular.

18 **MS. GROSSI:** We don't have any objections to defense
19 counsel leaving.

20 **THE COURT:** I mean, I think this is, like we said
21 about the first afternoon or yesterday, whichever day it was,
22 I mean, I'm going to follow the same policy which is I'll
23 leave it in the hands of the defense teams. Again, obviously
24 if you were sole counsel you would have to be here for sure.
25 This is one of those cases where all sides are represented by

1 multiple counsel. All sides have experienced counsel in every
2 position. This is not a case where we have an experienced
3 attorney and somebody brand new who is just kind of helping
4 out. So I will leave it to each team, including the Government
5 team because this has come up before with the Government to
6 make sure that you have one counsel who speaks for the entire
7 -- for the client. And if you have that, then I'm okay with
8 it.

9 From the defense side obviously I would like to have it
10 on the record that the defendant consents to it. But other
11 than that, I'm willing to abide by whatever approach you all
12 want to abide by at that point. And obviously we can do that
13 now or we can do that at a later point.

14 **MR. GUILLAUME:** Could we do it now, Your Honor?
15 Could we do it now? Could I get my client's consent?

16 **THE COURT:** True. I'm not sure if we're going to
17 meet again.

18 **MR. GUILLAUME:** Right. If I may.

19 **THE COURT:** Yes.

20 **MR. GUILLAUME:** Your Honor, I have made the request
21 of this Court to attend an event, a personal event on Friday
22 related to my children. And with the Court's permission and
23 my client's consent, my client has consented me to be at that
24 event and I would be here in the courthouse no later than 1:30
25 p.m. on Friday, if necessary. And I'll ask my client on the

1 record.

2 Mr. Williams, Taeyan Williams -- and Mr. Nieto will be
3 here all day for the record purposes.

4 You've heard me ask this Honorable Court to attend an
5 event on Friday and not be present for the first half of the
6 day, if necessary; is that correct?

7 **DEFENDANT T. WILLIAMS:** Yes, sir.

8 **MR. GUILLAUME:** And are you okay with excusing me
9 for the half-day on Friday from approximately 9 a.m. to 1:30
10 p.m., knowing that Mr. Nieto will be here the entire time and
11 I am available by phone in case there's an emergency, Mr.
12 Nieto could always call me. Are you okay with me not being
13 present in the building until about 1:30 on Friday?

14 **DEFENDANT T. WILLIAMS:** I have no problem excusing
15 you.

16 **THE COURT:** Thank you.

17 **MR. GUILLAUME:** Thank you.

18 **THE COURT:** Thank you, Mr. Williams.

19 Mr. Crawley, I don't know if you want to do this now or
20 at some later point.

21 **DEFENDANT S. WILLIAMS:** We can do it now.

22 **MR. CRAWLEY:** Yes, Your Honor. On behalf of Mr.
23 Scott Williams, Mr. Williams and I have discussed my schedule.
24 I expect that this Friday I will not be available to attend
25 court here in Greenbelt. Mr. Williams has given me his

1 permission to be excused on that day and Mr. Hawks has agreed
2 to be here on behalf of Mr. Scott Williams in regard to any
3 questions or possible return of a jury verdict.

4 With that being said, I would just ask Mr. Williams: Mr.
5 Williams, having heard what was just stated, do you concur, do
6 you agree to waiving my appearance and rely on the
7 representation of Mr. Kwasi Hawks in my stead, as well as your
8 lead attorney in this case?

9 **DEFENDANT S. WILLIAMS:** Yeah, I sure do concur.

10 **THE COURT:** Okay, thank you. Thank you, Mr.
11 Williams.

12 Just from a scheduling standpoint, I honestly have not
13 locked in on what's going to happen on Friday. I certainly had
14 hoped particularly when we got to the point where the jury got
15 the case, that we would be done by Friday. Obviously with this
16 restart that makes it less likely. So I think you are right to
17 raise this issue.

18 Ordinarily when we set a schedule during the trial itself
19 when we say we're not going to sit on Fridays, I try to honor
20 that for the jury because they've obviously made plans. At
21 this point though once we get past Thursday, we didn't
22 schedule anything past Thursday for them. So whatever they're
23 here for is beyond what their original schedule was. So I
24 think I'm going to take my cues from the jury on that. If for
25 some reason they were to say "We were thinking no Fridays, we

1 would like to take the weekend and come back on Monday," I'd
2 probably agree with that, in part because of the way it was
3 set up and that would obviously alleviate the issue you're
4 raising.

5 On the other hand, I think if they plan to keep going, I
6 don't think I would stand in their way either. And obviously
7 there's arrangements for each team. Particularly given that
8 they're restarting, they may well choose to stay the whole day
9 Friday or be here on Friday so that they don't extend into
10 next week any longer than they would need to if it got to that
11 point. So we'll just see what their inclinations are, but I
12 think we're equipped to handle it either way.

13 Anything else from anybody? We can talk about Monday's
14 schedule later. I don't think we need to talk about it right
15 now, but if we need to, we'll deal with that.

16 **MS. GROSSI:** That works for the Government, Your
17 Honor.

18 **MR. GUILLAUME:** Nothing further, Your Honor. Thank
19 you.

20 **MR. HAWKS:** Nothing further, Your Honor. Thank you.

21 **THE COURT:** Thank you. We will see you the next
22 time. Thank you very much.

23 **(The parties exited the courtroom at 2:17 p.m. and**
24 **no other communication was received from the jury for the**
25 **remainder of the day. Proceeding was concluded.)**

1 CERTIFICATE OF OFFICIAL REPORTER
2
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4

5 I, Nadine M. Bachmann, Certified Realtime Reporter
6 and Registered Merit Reporter, in and for the United States
7 District Court for the District of Maryland, do hereby
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20 FEDERAL OFFICIAL COURT REPORTER
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA,) CRIMINAL
) NO. TDC-18-631
Plaintiff,)
)
v.)
)
SCOTT ANTHONY WILLIAMS and)
TAEYAN RAYMOND WILLIAMS,)
)
Defendants.)

TRANSCRIPT OF JURY TRIAL PROCEEDINGS - DAY 12
BEFORE THE HONORABLE THEODORE D. CHUANG,
UNITED STATES DISTRICT JUDGE, AND A JURY
THURSDAY, MAY 11, 2023; 12:55 P.M.
GREENBELT, MARYLAND

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COMPUTER-AIDED TRANSCRIPTION OF STENOTYPE NOTES

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1 (Call to order of the Court.)

2 THE COURT: Thank you, everyone. Please be seated.

3 THE DEPUTY CLERK: The matter now pending before this
4 Court is Criminal Action No. TDC-18-0631, United States of
5 America vs. Scott Anthony Williams and Taeyan Raymond Williams.
6 We are here today for the purpose of a jury trial.

7 Counsel, please identify yourselves for the record.

8 MS. GROSSI: Good afternoon, Your Honor. Leah
9 Grossi, Michael Hanlon, and William Moomau on behalf of the
10 United States. Here with us at counsel's table is Kyle Simms
11 with the Maryland State Police.

12 THE COURT: Good afternoon.

13 MR. HAWKS: Good afternoon, Your Honor. Kwasi Hawks
14 and Dwight Crawley on behalf of Mr. Scott Williams, seated
15 between us.

16 MR. CRAWLEY: Good afternoon, Your Honor.

17 THE COURT: Good afternoon.

18 MR. GUILLAUME: Good afternoon, Your Honor. For the
19 record, Alfred Guillaume and Christopher Nieto on behalf of
20 Mr. Taeyan Williams, seated to my left.

21 THE COURT: Good afternoon to counsel. Mr. Hawks.

22 MR. HAWKS: Yes, Your Honor. I apologize for
23 interrupting you. In our haste to make it back to the
24 courtroom, we have left a full copy of our instructions
25 downstairs in the attorney conference area, and I ask that I be

1 momentarily excused to retrieve that quickly. Mr. Crawley will
2 remain with the permission of Mr. Williams.

3 THE COURT: I am not sure there is a better way, but
4 okay. Yeah. You can do that if you'd like.

5 MR. HAWKS: Thank you.

6 THE COURT: So welcome to the parties and members of
7 the audience.

8 So we have two questions that we have received from the
9 jury in close succession. The first one is: What exhibit
10 shows or expresses the net weight of the Schedule II
11 methamphetamine?

12 To me, this is a similar question to the one about what
13 exhibit number is the -- were the Wickr messages. I do not
14 specifically recall if there is one exhibit that handles this
15 issue or whether it was just testimony.

16 So just as a factual matter, do you know, Ms. Grossi?

17 MS. GROSSI: Yes, Your Honor. It was just testimony
18 of Ms. Amber Burns. There is no exhibit.

19 THE COURT: And there is no, like, report that was
20 entered as evidence, just --

21 MS. GROSSI: That's correct, Your Honor, yes. Just
22 testimony.

23 THE COURT: Okay. So, given that, does anyone have a
24 proposal on how we respond to this question?

25 MS. GROSSI: Your Honor --

1 MR. CRAWLEY: Sorry.

2 MS. GROSSI: Your Honor, the government suggests
3 referring them to Ms. Burns' testimony as a response.

4 THE COURT: Mr. Crawley.

5 MR. CRAWLEY: Your Honor, I would just say the
6 appropriate response would be: There is no exhibit and your
7 recollection controls. They were the fact finders in this case
8 so their recollection controls.

9 THE COURT: Does the Taeyan Williams team have
10 another viewpoint?

11 MR. GUILLAUME: We don't have another viewpoint, Your
12 Honor, but if we did, we would go with Mr. Crawley's
13 suggestion.

14 THE COURT: So, it's interesting. We don't usually
15 get questions like this even though it seems like they totally
16 are -- could be predicted. As I mentioned to you before, I was
17 somewhat concerned, given the volume of exhibits, that
18 sometimes it's hard for the juries to find things because they
19 don't have the same indexing system that we all have. So if
20 there had been an exhibit, I think I would, as we did with the
21 -- with the Wickr messages, would have considered doing that.

22 I think there is some difference, perhaps, between saying
23 we know there is an exhibit, just give us the number, versus
24 where in the evidence this piece of information is. This
25 really falls more in the latter category, so I actually think

1 it would be a little bit tougher argument to say we should give
2 an exhibit number when they don't seem to have a description
3 they can give us and just asked for a number.

4 But then when we move to the layer of it being witness
5 testimony, which I think is more difficult, I think I would
6 probably -- I think the -- giving them a witness name is more
7 than I have done in the past in this scenario even though I
8 can't admit this comes up very often.

9 I think -- so I think perhaps a happy medium might be
10 something like: No exhibit provides this information. Your
11 recollection of the witness testimony, or you -- well,
12 something along the lines of what Mr. Crawley said, either just
13 noting that there is witness testimony out there but not saying
14 that it covers this or saying who it is, but just -- I think if
15 we say no exhibit, there is a risk they think that there is no
16 evidence of that, which obviously is -- it's up to them to
17 remember everything, but I think that might be a little unfair.
18 I think if we just say we are not going to tell you the number,
19 they might go sifting through for hours and not find anything,
20 and that's probably not productive.

21 So what if we said: No exhibit provides this
22 information. Your collective memory of the witness testimony
23 -- or, I mean, for lack of a better phrase right now, I could
24 say, Your collective memory of the witness testimony controls,
25 which is similar to what Mr. Crawley says.

1 Does anybody have a better or different phraseology they
2 would prefer?

3 MS. GROSSI: Yes, Your Honor. The government submits
4 that something to the effect of what Your Honor said -- maybe
5 not naming Ms. Burns -- but saying, The collective memory of
6 the testimony related to this subject controls. To this -- I
7 mean, this subject was covered by her testimony, and so to not
8 address the subject, it kind of seems as though it wasn't
9 addressed in the testimony.

10 THE COURT: Does anybody have any thoughts on that
11 from the defense side?

12 MR. CRAWLEY: Your Honor, for simplicity reasons, I
13 would maintain the earlier position I took on behalf of
14 Mr. Scott Williams. I think it's straightforward and direct
15 and it addresses everything that they have asked in this
16 particular question. They asked specifically what exhibit.
17 There is no exhibit. And to the extent that they need to rely
18 on their memory, that's all they can rely on, the information
19 that was presented to them. So that's where we would stand on
20 that.

21 THE COURT: Anything different from that,
22 Mr. Guillaume?

23 MR. GUILLAUME: No, Your Honor. I was going to say
24 we don't have anything to add.

25 THE COURT: I think I am going to go with what I have

1 because, as Mr. Crawley said, the specific question was about
2 the exhibit. If we really want to just strictly answer the
3 question only, we would just say there is no exhibit. As I
4 said, that could be misleading or at least give them an
5 inference that maybe isn't accurate. So I am willing to add
6 something else about testimony, but I don't think I want to go
7 any further.

8 As a practical matter, I think if we say, Your collective
9 memory of the witness testimony controls, they are going to
10 think about, Was there a witness who said this? I don't think
11 -- and, obviously, they are going to focus on witnesses who
12 might have been in this range, so I don't think the addition
13 proposed by the government is necessary, and, again, trying to
14 keep it as limited as possible, I think I will stick with that.
15 So I will say, No exhibit provides this information. Your
16 collective memory of the witness testimony controls.

17 As for the other note, it states, "The jury needs further
18 clarification on the law that states possession of a firearm(s)
19 [sic] combined with the possession of drugs over a certain
20 quantity of drugs automatically infers that the firearm is
21 being used in the furtherance of drug trafficking."

22 It's not really a question, but it does say they need
23 further clarification, and I think there is two issues in
24 there. On the one hand, they are -- they are looking at the
25 question of whether possession of a firearm can -- you know,

1 whether there is -- the government has proven that the
2 possession of the firearm is in furtherance of drug trafficking
3 -- of the drug trafficking crime.

4 On the one hand, they are asking if there is additional
5 law to be brought to bear on this topic, and my initial
6 inclination is just to refer them back to the instruction that
7 covers the issue of in furtherance of a crime because while we
8 could get into sort of nuance situations, I don't think we have
9 -- first of all, I am not sure we have reached an agreement on
10 what the situation is that we need to address, but that the --
11 to the extent there is sort of specific doctrines relating to
12 this, nobody argued those, nobody really tried to assert that
13 there was a connection or asked for an instruction to show how
14 there might be a connection beyond just what we have in the
15 instruction, so I would tend to lean towards just saying, Look
16 at the instruction, I think it's on page 94, on this issue.

17 There is this other statement here about whether drugs
18 over a certain quantity automatically infer that the firearm
19 was being used in furtherance of the drug trafficking. That
20 raises, to some degree, the possibility that they think there
21 is an automatic inference to be drawn. I don't think anybody
22 would argue that there is anything automatic, although I think
23 we can still address both those issues in a balanced way by
24 just referring them back to the instructions, and the
25 instructions in no way infer that there is anything automatic.

1 So I think that's the cleanest thing to do, but I am
2 inviting both sides to weigh in.

3 MS. GROSSI: Your Honor, the government agrees. We
4 came up with four instructions to potentially refer them to:
5 Instruction No. 64, which talks about possession of a
6 controlled substance; Instruction 66, which talks about intent
7 to distribute; Instruction 83, which I believe is the one that
8 Your Honor has already mentioned, which is knowing possession,
9 use or carrying of a firearm --

10 THE COURT: Sorry. Give me the first two numbers
11 again.

12 MS. GROSSI: Yeah. Sure. Instruction No. 64, which
13 is on page 69.

14 THE COURT: Okay. And then?

15 MS. GROSSI: And then Instruction 66, which is on
16 page 72.

17 THE COURT: Mm-hmm.

18 MS. GROSSI: And then Instruction 83, which you
19 already referred to, which is page 94.

20 THE COURT: Mm-hmm.

21 MS. GROSSI: And then, just to be complete,
22 Instruction 90, which deals with the other 924(c) count and it
23 just really refers back, and that's at page 103.

24 THE COURT: So you are suggesting that I say that --
25 in response to this, Please refer to or consult those

1 instructions?

2 MS. GROSSI: Yes, Your Honor.

3 THE COURT: Okay. Any view from the defense on that
4 proposal or any other proposal?

5 MR. CRAWLEY: Yes, Your Honor. On behalf of
6 Mr. Scott Williams, we would take the position that the Court
7 not go beyond just merely referencing them back to the general
8 instructions as a whole and instruct them that they should read
9 the instructions as written; that meaning we would take the
10 position that there should not be any inferences drawn that are
11 not in the instruction.

12 I think what's happening here, and to your point, Your
13 Honor, as the Court touched upon earlier to the latter half of
14 this question, that doesn't even exist, so there is no
15 inference there. So I think what they are doing is maybe some
16 people are -- and I don't want to disparage the jury -- but
17 some people may be acting as if they are somewhat experts in
18 this particular area of law and may be trying to inject some
19 theory that doesn't exist. So if we limit it to just advising
20 them to stick with the instructions as written, it takes out
21 all of the ambiguity or lack of information that they believe
22 they may not have.

23 THE COURT: So are you agreeing or disagreeing with
24 the government that we should reference particular instructions
25 as part of that, or do you just not want to reference any of

1 them?

2 MR. CRAWLEY: I don't think we should focus any
3 attention on any specific instruction. I just think we should
4 take the broad approach: You have been provided with the
5 instructions. The instructions are designed to provide you
6 with how you should look at the case and apply the law and that
7 there is nothing else here that would suggest that there is an
8 inference, so there is nothing in the law that supports that.

9 But if the Court didn't want to get into the latter part
10 of what I just stated, I would just say focus them on the
11 notion that you have the instructions, you should read the
12 instructions as they are written, and leave it at that, Your
13 Honor.

14 THE COURT: So -- okay. Mr. Guillaume, anything to
15 add to that?

16 MR. GUILLAUME: No. I think the cleanest way, I
17 agree with Mr. Crawley, is to just say, You have the
18 instructions, the law has been provided to you, and their job
19 is to interpret it. I don't want to -- I don't think we should
20 be telling them where they should focus because who knows what
21 effect it may have on all three sides, for all three parties.

22 THE COURT: Well, I mean, I wonder, just on that
23 point, I mean, I think particularly Instruction 83, which deals
24 with in furtherance, I mean, to some degree, if your point is
25 you want them to get the message that there is nothing

1 automatic, I think if you read 83, there is nothing in there
2 that's automatic. If we don't focus them on at least that one,
3 then they are reading the whole thing looking for the
4 automatic, and, yeah, they probably won't find it, but, you
5 know, the more words they read, the more possibility that they
6 are like, Well, maybe there is something in here.

7 So if we focus them on the one that really is about this
8 issue and they can see what's there and what's not there,
9 wouldn't that be better, or do you still prefer the broad
10 approach?

11 MR. GUILLAUME: I think -- I see the Court's point,
12 and I don't think you are wrong, Your Honor. I just get very
13 nervous when we point to specific instructions over others
14 because who knows what emphasis is being given by whatever
15 factions are in the room in there. But I do -- I see your
16 point. I do think that answers the question more directly. I
17 don't think we should even tell them there is no automatic --
18 nothing automatic for that same reason. I just -- I am very
19 cautious when it comes to these things.

20 THE COURT: So even though they have asked about
21 automatic, you don't -- you are not asking me to tell them that
22 there is nothing automatic here?

23 MR. GUILLAUME: May I have the Court's brief
24 indulgence, Your Honor?

25 THE COURT: Sure.

1 MR. CRAWLEY: On behalf of Mr. Scott Williams, I am
2 just looking back over that instruction again, Your Honor.

3 MR. GUILLAUME: I guess I am kind of caught between a
4 rock and a hard place here, Your Honor, on behalf of Taeyan
5 Williams. I think that if you do tell them there is nothing
6 automatic, that stops that line of inquiry, but then if you
7 focus them on a particular instruction, that could potentially,
8 but not necessarily, be problematic, so I would want to consult
9 with my co-counsel before I make a definitive --

10 THE COURT: Okay. I mean, as I am reading the
11 instruction -- or the note again, it says, The jury needs
12 further clarification on the law that states possession of a
13 firearm combined with possession of drugs over a certain
14 quantity of drugs automatically infers, and one way to read
15 this is that that's their understanding is that there is an
16 automatic inference. They just don't know where it is or how
17 that's defined.

18 MR. CRAWLEY: And so the most direct answer from our
19 position is that there is no law that supports that. If that's
20 our intent, to be as honest and direct with them, then that's
21 the appropriate response.

22 To the extent that the Court may not want to engage in
23 that kind of dialogue, then I don't think we should single out
24 other instructions because it still, to your point, doesn't
25 answer their question. They are not going to get, from reading

1 these instructions, any law that speaks to this particular
2 question.

3 MS. GROSSI: Your Honor --

4 THE COURT: So I think I understand your position.

5 Ms. Grossi.

6 MS. GROSSI: Your Honor, I just think this is a
7 simple question where we point them to the law that they are
8 supposed to follow which is in the instructions, and providing
9 them with a legal answer outside of the instructions is
10 potentially problematic. So if we refer them to four different
11 instructions where they see the automatic is not listed, that's
12 going to be their -- you know, their interpretation of the law
13 is going to be based on these instructions.

14 THE COURT: But what's wrong with saying there is
15 nothing automatic here? Because they are not asking is there
16 an automatic inference. They are saying, We want clarification
17 on the law that states that there is, you know, possession
18 combined with -- firearms combined with drugs over a certain
19 quantity automatically infers that's being used.

20 MS. GROSSI: Your Honor, I think we are potentially
21 parsing out this note in an unfair way. They are asking for
22 further clarification on the law with regard to possession of
23 firearms. We don't know if they are, like, using this
24 automatically in the way that we are thinking automatic, and so
25 I think it's important to send them a note back to refer them

1 to the instructions both parties have agreed to. That is the
2 law in this circuit on this particular count.

3 And Your Honor, just another point. I don't know if they
4 are also talking about Chris Bush's testimony about weights
5 being over a certain amount and that being drug trafficking,
6 and so I think, you know, we could also add the point of also
7 testimony -- your collective understanding of testimony also
8 should be considered.

9 THE COURT: Well, they are asking for a -- the legal
10 definitions. They are not asking for guidance on the facts in
11 this question. They were in the other question.

12 Mr. Crawley, you wanted to add something else?

13 MR. CRAWLEY: Yes, Your Honor. Again, if we take it
14 at its face value, it seems to be, in my opinion, asking for
15 something that doesn't exist. If we just read it on its face
16 value, they are saying specifically, We need clarification on
17 the law that states these things. There is no law that states
18 those things, so we don't have to make this complicated
19 because, to cut to the chase, the answer is there is no law
20 that states those things.

21 To the extent that the Court wishes to suggest that you
22 have the jury instructions and you should follow the jury
23 instructions, I believe, on behalf of Mr. Williams, that that's
24 the appropriate response.

25 MS. GROSSI: Your Honor, I am also looking at

1 Instruction 83 where it is talking about quantity of drugs, and
2 so that's why we were -- I think it's important to refer them
3 to that instruction -- I'm sorry, Instruction No. 66, and then
4 in conjunction with Instruction 83, which are to be read
5 together with regard to possession and distribution.

6 THE COURT: Mr. Guillaume.

7 MR. GUILLAUME: Your Honor, just to clarify our
8 position, it's somewhat of a -- something very similar to
9 Mr. Crawley's. Simply saying that there is no law that states
10 this proposition and then you have the instructions to follow,
11 without naming specific instructions, I think is the cleanest
12 and most safe way for us. But I understand everything the
13 Court has said. And I understand the government is saying what
14 they are saying, but I think it just makes it way more
15 confusing potentially to their deliberation. Thank you.

16 MS. GROSSI: Your Honor, I think we are of the view
17 that we should not be adding to the instructions at this point.
18 We gave these instructions, we agreed to these instructions,
19 and so pointing them back to these instructions would be
20 consistent with that.

21 THE COURT: Well, I am definitely going to point them
22 back to the instructions. I think what I am weighing now is
23 whether we should state -- because, again, they don't ask
24 whether there is an automatic inference. They state that there
25 is and they want further clarification on the parameters of

1 that. And while we often, again, try to stay within the
2 confines of the instructions, I guess I am not sure whether we
3 need to disabuse them of that notion.

4 MR. CRAWLEY: Counsel for Mr. Scott Williams believes
5 we should, Your Honor.

6 MS. GROSSI: And the government -- you know, I think
7 we might be taking the automatically out of context, but we
8 understand the Court's position.

9 THE COURT: Give me your interpretation, when you are
10 saying it takes it out of context, what do you mean by that?

11 MS. GROSSI: I think it could be just that the
12 quantity of drugs and, you know, that it's a large quantity of
13 drugs infers that the firearm is being used in furtherance of
14 drug trafficking and not necessarily meaning automatically
15 because if you think about -- I think in the instructions, it
16 says it would be highly unlikely that a person with 50,000
17 doses of a drug possessed them all for personal consumption,
18 and so I think that their interpretation of automatically could
19 be, yeah, it's obvious someone doesn't have 50,000 doses of a
20 drug for their own personal consumption.

21 THE COURT: Well, I think the problem is as you have
22 -- I mean, what you are referring to is the instruction on what
23 is intent to distribute. And the agent's testimony, I think it
24 was -- they said Agent Bush, was talking about how a certain
25 drug quantity basically means possession in his expert opinion

1 -- or intent to distribute. And if someone said that's
2 automatic, that's not that far off, although it's clearly not
3 required, but that could be what they are talking about. But
4 the idea that possession of a certain quantity, even a
5 distribution quantity, combined with possession automatically
6 infers use in furtherance, that's a different concept, which I
7 don't think the instructions bear out, and I don't think the
8 agent was trying to say that, and the government didn't even
9 try to argue that because it's certainly not automatic.

10 I mean, you could argue that under these facts, you can
11 reach that inference, but certainly not automatically. And so
12 I think there is some concern that this is a misinterpretation
13 of the instruction, and so I think anything we say needs to
14 make pretty clear, either explicitly or implicitly, that that's
15 not accurate. And I do think the primary instruction on this
16 is 83.

17 So I am going to suggest this, we say -- how does this
18 sound: The law does not require an automatic inference as
19 described in the note. You should consider the jury
20 instructions as a whole, including Instructions No. 83 and 90.
21 And I could sort of rewrite the exact language of the note. I
22 just think that's probably not necessary, so that's why I say
23 "as described in the note." And then referring to 83 and 90,
24 which is the in furtherance, I think it's helpful to direct
25 them to those because I think those are the ones that they

1 really want to look at. This question really is about in
2 furtherance of drug trafficking.

3 I am telling them to look at all the instructions
4 entirely so that they still need to do that, but I think
5 without giving them any guidance when you are talking about 120
6 pages of instructions is not productive particularly since they
7 have to look at that one to get to this even if they are going
8 to look at other ones. So that's my suggestion.

9 Any views on that?

10 MS. GROSSI: Your Honor, I think it's important to
11 add 64 and 66 because the counts deal with drug trafficking,
12 the 924(c)s, and since the note is asking about the quantity of
13 the drugs, pointing to 64 and 66 I think is really important.

14 THE COURT: I guess what I am wondering is -- I mean,
15 if we are talking about a drug trafficking crime, it's implicit
16 that they are finding there is intent to distribute. They know
17 that. There is a couple of instructions that say you can't
18 even get to these counts unless you find that there was a drug
19 trafficking crime. So at that point, they have established
20 possession and intent to distribute.

21 I am not saying that they are not relevant. I am
22 thinking about whether they should be emphasized or whether we
23 are pushing them off into another direction, but I don't know.

24 Any views from the defense on that?

25 MR. CRAWLEY: Your Honor, on behalf of Mr. Scott

1 Williams, my position on behalf of Mr. Williams would be that
2 the Court, in instructing them to follow Instruction 90, is
3 actually instructing them to follow 83?

4 THE COURT: Yeah. It's just to be complete.

5 MR. CRAWLEY: And I understand. We are not taking
6 exception with that. But we believe if that is the Court's
7 intent to do that, that then that's where it should stop.
8 That's all I was going to say, Your Honor, then that's where it
9 should stop because, as the Court just touched upon, if you
10 read 90, 90 directs you to 83, so merely having you restate
11 that is not going to offer anything additional to that
12 proposition. It tells them to do it as well.

13 But that being said, we disagree with the government as
14 to the other two instructions because, as the Court just
15 touched upon, it's inherent in the particular charges that if
16 that's what you are doing, that's what you are doing.

17 So we would just leave it at there is no law that goes to
18 that particular point that you asked the question about, and if
19 the Court is inclined to instruct on anything else, we would
20 ask the Court to limit it to what you just proposed, Your
21 Honor.

22 MR. GUILLAUME: And Your Honor, on behalf of
23 Mr. Taeyan Williams, we share the view of co-counsel, but we --
24 and we do want to make clear for the record that we do object
25 to any additional instructions other than the I think it's 83

1 --

2 THE COURT: 83 and maybe 90, which is redundant.

3 MR. GUILLAUME: Thank you.

4 THE COURT: So, Ms. Grossi, this first half I have,
5 The law does not require an automatic inference as described in
6 the note. I understand why you might not want it. Do you
7 think there is anything incorrect about that statement?

8 MS. GROSSI: No, Your Honor. Are you putting that in
9 quotes, automatically infers, or --

10 THE COURT: Well, as drafted, it says, "automatic
11 inference," so it's not a direct quote.

12 MS. GROSSI: The government is fine with that, Your
13 Honor. It is stating the law correctly.

14 THE COURT: Okay. Okay. So what I will say is: The
15 law does not require an automatic inference as described in the
16 note -- or in your note. Maybe I will say that. You should
17 consider the jury instructions as a whole, including
18 Instructions No. 83 and 90.

19 Any further objections? Okay. So we will send responses
20 back to those two notes and we will see where we are. I noted,
21 although one never knows the ways of the jury, but these
22 questions are about -- the most likely interpretation is we are
23 talking about Counts Seven and Eight, so if, for some reason,
24 they are going in chronological order, they are moving along.
25 If they are not going in chronological order, I don't know, but

1 it may mean that we might hear further information this
2 afternoon.

3 Thank you very much.

4 (Recess taken from 1:32 p.m. until 3:38 p.m.)

5 THE COURT: Thank you, everyone. Please be seated.

6 So, welcome back, everyone. We received a note stating,
7 "We, the jury, have concluded deliberations and have determined
8 a verdict on all counts for both Defendants Scott Anthony
9 Williams and Taeyan Raymond Williams." So I believe we are
10 ready, then, to bring the jury in for the verdict.

11 Is there anything we need to discuss before that?

12 MS. GROSSI: Not from the government.

13 MR. HAWKS: No, Your Honor.

14 MR. GUILLAUME: No, Your Honor.

15 THE COURT: Okay. So the only thing I would say
16 before we do that, because I think it's sometimes a little
17 difficult to say it after the verdict under whatever the
18 circumstances are, I just wanted to thank counsel for a well
19 tried case from both sides. In my view, both sides were -- all
20 three sides, really, were well represented. There was strong
21 advocacy on all sides, but fair advocacy, and the cooperation
22 among counsel was very favorable in a way that was good for the
23 efficiency of the Court but in no way impacted the strength of
24 everyone's position. And I think that's something that good
25 counsel are always able to do, and these counsel did that, and

1 so I just want to thank counsel for a well tried case and let
2 you know I am happy to work with you again in the future.

3 And with that, we will bring in the jury.

4 MR. CRAWLEY: Thank you, Your Honor.

5 (The jury panel enter the courtroom at 3:41 p.m.)

6 THE COURT: Thank you, everyone. Please be seated.

7 So I understand that the jury has reached a verdict in
8 this case. Madam Clerk, you may begin with the roll call.

9 THE DEPUTY CLERK: We are here to receive the verdict
10 in Criminal Action No. TDC-18-0631, United States of America
11 vs. Scott Anthony Williams and Taeyan Raymond Williams.

12 Members of the jury panel, when I call your juror number,
13 would you please stand and answer "present."

14 Juror No. 1.

15 A JUROR: Present.

16 THE DEPUTY CLERK: Juror No. 2.

17 A JUROR: Present.

18 THE DEPUTY CLERK: Juror No. 3.

19 A JUROR: Present.

20 THE DEPUTY CLERK: Juror No. 4.

21 A JUROR: Present.

22 THE DEPUTY CLERK: Juror No. 5.

23 A JUROR: Present.

24 THE DEPUTY CLERK: Juror No. 6.

25 A JUROR: Present.

1 THE DEPUTY CLERK: Juror No. 7.

2 A JUROR: Present.

3 THE DEPUTY CLERK: Juror No. 8.

4 A JUROR: Present.

5 THE DEPUTY CLERK: Juror No. 9.

6 A JUROR: Present.

7 THE DEPUTY CLERK: Juror No. 10.

8 A JUROR: Present.

9 THE DEPUTY CLERK: Juror No. 11.

10 A JUROR: Present.

11 THE DEPUTY CLERK: Juror No. 12.

12 A JUROR: Present.

13 THE DEPUTY CLERK: Members of the jury, have you
14 agreed on your verdict?

15 (The jury panel reply, "Yes.")

16 THE DEPUTY CLERK: Who shall speak for you?

17 JURY FOREPERSON: I will.

18 THE DEPUTY CLERK: Will the foreperson please rise.

19 Has the verdict sheet which was submitted to the jury
20 been answered?

21 JURY FOREPERSON: Yes.

22 THE DEPUTY CLERK: Is the form signed and dated by
23 you?

24 JURY FOREPERSON: Yes.

25 THE DEPUTY CLERK: Please hand the verdict sheet to

1 me so I may present it to the judge.

2 THE COURT: The verdict form is in order, so I will
3 ask you, Madam Clerk, to inquire.

4 THE DEPUTY CLERK: As I read the questions, please
5 provide the answers. Will the defendants please rise.

6 United States of America vs. Scott Anthony Williams and
7 Taeyan Raymond Williams, Criminal Action No. TDC-18-0631.
8 Verdict Form. Count One: Conspiracy to distribute and possess
9 with intent to distribute controlled substances. Question 1:
10 As to Count One, conspiracy to distribute and possess with
11 intent to distribute controlled substances, how do you find the
12 defendant, Scott Anthony Williams?

13 JURY FOREPERSON: Guilty.

14 THE DEPUTY CLERK: As to defendant, Scott Anthony
15 Williams, do you find that the offense involved a mixture or
16 substance containing cocaine, a Schedule II controlled
17 substance?

18 JURY FOREPERSON: Yes.

19 THE DEPUTY CLERK: As to defendant, Scott Anthony
20 Williams, do you find that the offense involved a mixture or
21 substance containing marijuana, a Schedule I controlled
22 substance?

23 JURY FOREPERSON: Yes.

24 THE DEPUTY CLERK: As to Count One, conspiracy to
25 distribute and possess with intent to distribute controlled

1 substances, how do you find the defendant, Taeyan Raymond
2 Williams?

3 JURY FOREPERSON: Guilty.

4 THE DEPUTY CLERK: As to defendant -- excuse me. As
5 to the defendant, Taeyan Raymond Williams, do you find that the
6 offense involved a mixture or substance containing cocaine, a
7 Schedule II controlled substance?

8 JURY FOREPERSON: Yes.

9 THE DEPUTY CLERK: As to the defendant, Taeyan
10 Raymond Williams, do you find that the offense involved a
11 mixture or substance containing marijuana, a Schedule --

12 JURY FOREPERSON: Yes.

13 THE DEPUTY CLERK: -- I controlled substance?

14 JURY FOREPERSON: Yes.

15 THE DEPUTY CLERK: Count Two: Conspiracy to
16 interfere with interstate commerce by robbery or extortion.

17 As to Count Two, conspiracy to interfere with interstate
18 commerce by robbery or extortion, how do you find the
19 defendant, Scott Anthony Williams?

20 JURY FOREPERSON: Not guilty.

21 THE DEPUTY CLERK: As to Count Two, conspiracy to
22 interfere with interstate commerce by robbery or extortion, how
23 do you find the defendant, Taeyan Raymond Williams?

24 JURY FOREPERSON: Not guilty.

25 THE DEPUTY CLERK: Count Three, Question Five: As to

1 Count Three, interference with interstate commerce by robbery
2 or extortion, how do you find the defendant, Scott Anthony
3 Williams?

4 JURY FOREPERSON: Not guilty.

5 THE DEPUTY CLERK: As to Count Three of the
6 indictment, interference with interstate commerce by robbery or
7 extortion, how do you find the defendant, Taeyan Raymond
8 Williams?

9 JURY FOREPERSON: Not guilty.

10 THE DEPUTY CLERK: Count Four: Kidnapping with death
11 resulting. As to Count Four, kidnapping with death resulting,
12 how do you find the defendant, Scott Anthony Williams?

13 JURY FOREPERSON: Not guilty.

14 THE DEPUTY CLERK: As to the lesser-included offense
15 to Count Four, kidnapping, how do you find the defendant, Scott
16 Anthony Williams?

17 JURY FOREPERSON: Not guilty.

18 THE DEPUTY CLERK: As to Count Four, kidnapping with
19 death resulting, how do you find the defendant, Taeyan Raymond
20 Williams?

21 JURY FOREPERSON: Not guilty.

22 THE DEPUTY CLERK: As to the lesser-included offense
23 to Count Four, kidnapping, how do you find the defendant,
24 Taeyan Raymond Williams?

25 JURY FOREPERSON: Not guilty.

1 THE DEPUTY CLERK: Count Five: Possessing, using,
2 carrying, and brandishing a firearm in furtherance of or during
3 and in relation to a crime of violence or a drug trafficking
4 crime.

5 As to Count Five, possessing, using, carrying, and
6 brandishing a firearm in furtherance of or during and in
7 relation to a crime of violence or a drug trafficking crime,
8 how do you find the defendant, Scott Anthony Williams?

9 JURY FOREPERSON: Not guilty.

10 THE DEPUTY CLERK: As to the lesser-included offense
11 to Count Five of possessing, using, or carrying a firearm in
12 furtherance of or during and in relation to a crime of violence
13 or a drug trafficking crime, how do you find the defendant,
14 Scott Anthony Williams?

15 JURY FOREPERSON: Not guilty.

16 THE DEPUTY CLERK: Question 10: As to Count Five,
17 possessing, using, carrying, and brandishing a firearm in
18 furtherance of or during and in relation to a crime of violence
19 or a drug trafficking crime, how do you find the defendant,
20 Taeyan Raymond Williams?

21 JURY FOREPERSON: Not guilty.

22 THE DEPUTY CLERK: As to the lesser-included offense
23 to Count Five of possessing, using, or carrying a firearm in
24 furtherance of or during and in relation to a crime of violence
25 or a drug trafficking crime, how do you find the defendant,

1 Taeyan Raymond Williams?

2 JURY FOREPERSON: Not guilty.

3 THE DEPUTY CLERK: Count Six: Possession with intent
4 to distribute controlled substances.

5 Question 11: As to Count Six, possession with intent to
6 distribute controlled substances, how do you find the
7 defendant, Scott Anthony Williams?

8 JURY FOREPERSON: Guilty.

9 THE DEPUTY CLERK: As to the defendant, Scott Anthony
10 Williams, do you find that the offense involved a mixture or
11 substance containing cocaine, a Schedule II controlled
12 substance?

13 JURY FOREPERSON: Yes.

14 THE DEPUTY CLERK: As to the defendant, Scott Anthony
15 Williams, do you find that the offense involved a mixture or
16 substance containing marijuana, a Schedule I controlled
17 substance?

18 JURY FOREPERSON: Yes.

19 THE DEPUTY CLERK: As to Count Six, possession with
20 intent to distribute controlled substances, how do you find the
21 defendant, Taeyan Raymond Williams?

22 JURY FOREPERSON: Guilty.

23 THE DEPUTY CLERK: As to the defendant, Taeyan
24 Raymond Williams, do you find that the offense involved a
25 mixture or substance containing cocaine, a Schedule II

1 controlled substance?

2 JURY FOREPERSON: Yes.

3 THE DEPUTY CLERK: As to the defendant, Taeyan
4 Raymond Williams, do you find that the offense involved a
5 mixture or substance containing marijuana, a Schedule I
6 controlled substance?

7 JURY FOREPERSON: Yes.

8 THE DEPUTY CLERK: Count Seven: Possession with
9 intent to distribute controlled substances.

10 As to Count Seven, possession with intent to distribute
11 controlled substances, how do you find the defendant, Scott
12 Anthony Williams?

13 JURY FOREPERSON: Guilty.

14 THE DEPUTY CLERK: What amount of a mixture or
15 substance containing a detectable amount of methamphetamine, a
16 Schedule II controlled substance, do you find that Scott
17 Anthony Williams possessed with the intent to distribute?

18 JURY FOREPERSON: 500 grams or more.

19 THE DEPUTY CLERK: Count Eight: Possession of a
20 firearm in furtherance of a drug trafficking crime.

21 As to Count Eight, possession of a firearm in furtherance
22 of a drug trafficking crime, how do you find the defendant,
23 Scott Anthony Williams?

24 JURY FOREPERSON: Not guilty.

25 THE DEPUTY CLERK: Count Nine: Conspiracy to destroy

1 or conceal evidence.

2 As to Count Nine, conspiracy to destroy or conceal
3 evidence, how do you find the defendant, Scott Anthony
4 Williams?

5 JURY FOREPERSON: Guilty.

6 THE COURT: Thank you, Madam Foreperson.

7 Does any party request that the jury be polled?

8 MR. HAWKS: No, Your Honor.

9 MR. GUILLAUME: No, Your Honor.

10 MS. GROSSI: No, Your Honor.

11 THE COURT: Thank you.

12 Madam Clerk.

13 THE DEPUTY CLERK: Members of the jury, you have
14 heard the verdict and answers thereto as delivered by your
15 foreperson and the verdict has been recorded, and do each of
16 you agree? Please respond, "We do."

17 (The jury panel reply, "We do.")

18 THE DEPUTY CLERK: Verdict recorded, Your Honor.

19 THE COURT: The defendants may be seated.

20 So, ladies and gentlemen of the jury, this concludes your
21 jury service. The last instruction I will give you is that you
22 are no longer instructed not to talk about the case.

23 Now, under our local rules, the parties and their
24 attorneys are not permitted to contact you to discuss the case.
25 You will not be asked to explain your verdict to them. But if

1 you want to discuss your jury experience with your friends,
2 family, and others, you are free to do so. I do ask that if
3 you choose to discuss the case, that you consider your fellow
4 jurors and the confidentiality of the jury deliberation process
5 and the need for jurors to feel comfortable stating their views
6 on a case in the jury room without concern that their views
7 will be broadcast to others or to the general public.

8 So one suggestion I have is that if you do discuss the
9 case with others, you refrain from repeating specific
10 statements made during deliberations or attributing statements
11 or views to your fellow jurors.

12 We do ask that you leave your notes and other materials
13 from the case behind you in the jury room.

14 And let me offer a final thank you on behalf of our
15 court. As I stated at the outset of our trial, our
16 Constitution and our democratic system depend on citizens like
17 you serving as jurors to ensure that our justice system remains
18 in the hands of the people.

19 Interestingly enough, today, while you were deliberating,
20 I presided over a naturalization ceremony in the building for
21 new citizens, and I made the point that it's one of their
22 duties as new citizens to serve on juries if called upon, and
23 there is no better example of that than what you all have done
24 today. So I want to thank you for that. You have helped to
25 ensure that this important American tradition endures, and I

1 can't thank you enough on behalf of our court.

2 Because of the importance of your service to our court
3 and our justice system, I would like to have the opportunity to
4 thank you in person. You are not required to wait for me, but
5 if you don't mind waiting a few minutes while I finish any
6 remaining business with the parties or the attorneys, I will
7 come by the jury room to thank you.

8 With that, the jury is discharged.

9 (The jury panel exit the courtroom at 3:56 p.m.)

10 THE COURT: Thank you, everyone. Please be seated.

11 I do need to -- wait just a moment. Make sure that the
12 government and both sides work with the clerk to make sure the
13 exhibits get returned.

14 And we are just looking to see if we can get some
15 sentencing dates.

16 THE DEPUTY CLERK: Sure. August 10th, nine a.m.

17 MR. GUILLAUME: I'm sorry. Is this for both or just
18 --

19 THE DEPUTY CLERK: For both.

20 MR. GUILLAUME: Your Honor, I am in a month-long
21 trial starting August 9th. I am available the 7th and 8th if
22 the Court is available.

23 MR. CRAWLEY: Your Honor, on behalf of Mr. Scott
24 Williams, I don't know that both counsel are necessary. I
25 start a trial in the Eastern District of Virginia the first

1 week of August, and I have a plea that's -- I think it's going
2 to resolve itself, so I will do my best to be here on that date
3 if the Court wishes to sign it. But if the Court is inclined
4 to let Mr. Hawks appear without me -- he was the lead attorney,
5 the first attorney -- I think he can handle it, I think he
6 would handle it without me, but I just wanted to let the Court
7 know my schedule.

8 I hope to have that case resolved with a signed plea
9 document by tomorrow. The Court understands that I said I had
10 some other matters that I was trying to deal with tomorrow.
11 That is one of the matters. So hopefully I will have a
12 signature on that document.

13 THE COURT: So, first of all, I think one way to
14 possibly sort this out is we don't need to necessarily have to
15 do them on the same day, so does that help in terms of,
16 Mr. Guillaume, your schedule?

17 MR. GUILLAUME: Yes, Your Honor. I do -- like I
18 said, the month of August is completely booked. Other than the
19 7th -- actually, the 8th may be booked as well. I have a
20 pretrial that may go a while. But in the same vein as
21 Mr. Crawley, if Mr. Nieto -- I'd like to be here, but if -- I
22 don't want to hold things up, so if Mr. Nieto can handle it by
23 himself --

24 THE COURT: Well, I mean, I'd like to get a date
25 where all of you can be here, partly because you were

1 participants in the trial, but also since everyone seems to be
2 willing to just have one attorney, it's sort of more likely not
3 to create an issue if we have a date that initially both sides
4 -- all attorneys can make, and then if something comes up, we
5 can still go forward. If we are relying just on one attorney,
6 then --

7 MR. GUILLAUME: Is the Court available on the 7th,
8 Your Honor?

9 THE COURT: You tell me. Well, let's do Monday,
10 August 7th, at 2:00.

11 MR. GUILLAUME: Thank you, Your Honor.

12 THE COURT: That will be for Taeyan Williams. Does
13 that work for you, Mr. Nieto?

14 MR. NIETO: Yes. Thank you.

15 THE COURT: The government?

16 MS. GROSSI: Your Honor, our case agent is not
17 available that day. He's been on the case for five years, so
18 we would like to have him there.

19 THE COURT: Okay. Would the -- was the 9th an option
20 for the other team, for the Scott Williams team?

21 MR. HAWKS: That should work.

22 THE COURT: Is that the day that you were talking
23 about?

24 MR. CRAWLEY: No, the first week of August. I
25 couldn't remember what date you were saying. I expect to be

1 done in Virginia, even if we have a trial, by the 9th. I
2 apologize if I misunderstood.

3 MR. HAWKS: Your Honor, I am also available on the
4 9th.

5 THE COURT: Is that any different or is it the same?

6 MS. GROSSI: Your Honor, our case agent is scheduled
7 for a trial that whole week, the 7th through the 11th.

8 THE COURT: Well, what about after the 11th?

9 MS. GROSSI: We are available the week of the 21st,
10 Your Honor, of August.

11 THE COURT: The 21st, that week -- no. How does
12 August 22nd work?

13 MS. GROSSI: That works for the government.

14 MR. GUILLAUME: Your Honor, I am supposed to be in
15 trial, but this trial is scheduled for a month. I don't know
16 that it will really go a month. If I may have the Court's
17 permission to have Mr. Nieto appear? If I am still in trial, I
18 wouldn't appear, although I do want to be here for my client.

19 THE COURT: Well, what if we did the 23rd, would that
20 help?

21 MR. GUILLAUME: The trial is scheduled to last from
22 August 8th to September 8th. It's a five co-defendant trial in
23 D.C. federal court. I don't think it's going to last that
24 long, but, again, I have been wrong.

25 THE COURT: What if we did the 22nd for Scott

1 Williams and the 23rd for Taeyan Williams, does that work?

2 MR. NIETO: Forgive me, Your Honor. I have
3 sentencing in Baltimore on the 23rd. In fairness, that's at
4 ten a.m., so if Your Honor had availability in the afternoon,
5 I can be here.

6 THE COURT: How does that week work for the
7 government?

8 MS. GROSSI: Those dates work, Your Honor.

9 THE COURT: Why don't we do 9:30 on the 22nd for
10 Mr. Scott Williams and 2:00 on -- or 2:30 on the 23rd for
11 Taeyan Williams. That gives Mr. Guillaume an extra day, if
12 necessary. And Mr. Nieto, that's okay for you?

13 MR. NIETO: Absolutely, Your Honor.

14 THE COURT: And the government is okay with that?

15 MS. GROSSI: That works, Your Honor.

16 MR. GUILLAUME: Thank you, Your Honor.

17 THE COURT: Any other business we need to discuss
18 today?

19 MR. HAWKS: Your Honor, as the -- the charges with
20 the most significant punitive exposure are no longer before
21 defendant, Scott Williams, he wanted to inquire whether or not
22 the government seeks his continued detention before sentencing.

23 MS. GROSSI: We do, Your Honor.

24 THE COURT: Well, I mean, the conviction includes
25 possession with intent to distribute controlled substances,

1 including cocaine. Under 18, U.S.C., 3143, there is not just a
2 presumption, but the Court shall detain, absent exceptional
3 circumstances which could be found under 18, U.S.C., 3145, but
4 I am not going to find exceptional circumstances in this case
5 on that basis. And I think there is also -- is there a
6 mandatory minimum for 500 grams?

7 MS. GROSSI: There is. There is a ten-year mandatory
8 minimum, Your Honor.

9 THE COURT: But even without that, I think just the
10 statute doesn't permit me to release on this type of conviction
11 absent exceptional circumstances, and I am not going to find
12 those under these circumstances, but I certainly understand the
13 request.

14 MR. HAWKS: Thank you, Your Honor.

15 THE COURT: So the defendants will be remanded back
16 to the custody of the marshals pending sentencing.

17 Anything else we should discuss while we are here today?

18 MS. GROSSI: Nothing further, Your Honor.

19 MR. GUILLAUME: Nothing further, Your Honor.

20 THE COURT: Thank you all very much.

21 MR. CRAWLEY: Thank you, Your Honor.

22 (The proceedings were concluded at 4:05 p.m.)
23
24
25

C E R T I F I C A T E

I, Renee A. Ewing, an Official Court Reporter for the United States District Court for the District of Maryland, do hereby certify that the foregoing is a true and correct transcript of the stenographically reported proceedings taken on the date and time previously stated in the above matter; that the testimony of witnesses and statements of the parties were correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription to the best of my ability; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

/s/ Renee A Ewing

Renee A. Ewing, RPR, RMR, CRR
Official Court Reporter
September 29, 2023

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

☒ FILED ☐ ENTERED
☐ LOGGED ☐ RECEIVED

MAY 11 2023

AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY *[Signature]* DEPUTY

Criminal Action No. TDC-18-0631

UNITED STATES OF AMERICA

v.

SCOTT ANTHONY WILLIAMS and
TAEYAN RAYMOND WILLIAMS,

Defendants.

VERDICT FORM

**Count 1: Conspiracy to Distribute and Possess with Intent to Distribute
Controlled Substances**

1. As to **Count 1**, Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances, how do you find the defendant, Scott Anthony Williams?

Guilty ☒

Not Guilty ☐

If your answer to Question 1 is "guilty," then proceed to answer Questions 1a and 1b. If your answer to Question 1 is "not guilty," then do not answer Questions 1a and 1b and proceed directly to Question 2.

- a. As to the defendant, Scott Anthony Williams, do you find that the offense involved a mixture or substance containing cocaine, a Schedule II controlled substance?

Yes ☒

No ☐

- b. As to the defendant, Scott Anthony Williams, do you find that the offense involved a mixture or substance containing marijuana, a Schedule I controlled substance?

Yes ☒

No ☐

2. As to **Count 1**, Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances, how do you find the defendant, Taeyan Raymond Williams?

Guilty ☒

Not Guilty ☐

If your answer to Question 2 is "guilty," then proceed to answer Questions 2a and 2b. If your answer to Question 2 is "not guilty," then do not answer Questions 2a and 2b and proceed directly to Question 3.

- a. As to the defendant, Taeyan Raymond Williams, do you find that the offense involved a mixture or substance containing cocaine, a Schedule II controlled substance?

Yes ☒

No ☐

- b. As to the defendant, Taeyan Raymond Williams, do you find that the offense involved a mixture or substance containing marijuana, a Schedule I controlled substance?

Yes ☒

No ☐

Count 2: Conspiracy to Interfere with Interstate Commerce by Robbery or Extortion

3. As to **Count 2**, Conspiracy to Interfere with Interstate Commerce by Robbery or Extortion, how do you find the defendant, Scott Anthony Williams?

Guilty ☐

Not Guilty ☒

If your answer to Question 3 is "guilty," then proceed to answer Questions 3a and 3b. If your answer to Question 3 is "not guilty," then do not answer Questions 3a and 3b and proceed directly to Question 4.

- a. As to Scott Anthony Williams, do you find that an object of the conspiracy was to commit the crime of Interference with Interstate Commerce by Robbery?

Yes ☐

No ☐

- b. As to Scott Anthony Williams, do you find that an object of the conspiracy was to commit the crime of Interference with Interstate Commerce by Extortion?

Yes ☐

No ☐

4. As to **Count 2**, Conspiracy to Interfere with Interstate Commerce by Robbery or Extortion, how do you find the defendant, Taeyan Raymond Williams?

Guilty ☐

Not Guilty ☒

If your answer to Question 4 is "guilty," then proceed to answer Questions 4a and 4b. If your answer to Question 4 is "not guilty," then do not answer Questions 4a and 4b and proceed directly to Question 5.

- a. As to Taeyan Raymond Williams, do you find that an object of the conspiracy was to commit the crime of Interference with Interstate Commerce by Robbery?

Yes _____

No _____

- b. As to Taeyan Raymond Williams, do you find that an object of the conspiracy was to commit the crime of Interference with Interstate Commerce by Extortion?

Yes _____

No _____

Count 3: Interference with Interstate Commerce by Robbery or Extortion

5. As to **Count 3**, Interference with Interstate Commerce by Robbery or Extortion, how do you find the defendant, Scott Anthony Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 5 is "guilty," then proceed to answer Questions 5a and 5b. If your answer to Question 5 is "not guilty," then do not answer Questions 5a and 5b and proceed directly to Question 6.

- a. Did the Government prove beyond a reasonable doubt that the defendant, Scott Anthony Williams, committed the crime of Interference with Interstate Commerce by Robbery?

Yes _____

No _____

- b. Did the Government prove beyond a reasonable doubt that the defendant, Scott Anthony Williams, committed the crime of Interference with Interstate Commerce by Extortion?

Yes _____

No _____

6. As to **Count 3** of the Indictment, Interference with Interstate Commerce by Robbery or Extortion, how do you find the defendant, Taeyan Raymond Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 6 is "guilty," then proceed to answer Questions 6a and 6b. If your answer to Question 6 is "not guilty," then do not answer Questions 6a and 6b and proceed directly to Question 7.

- a. Did the Government prove beyond a reasonable doubt that the defendant, Taeyan Raymond Williams, committed the crime of Interference with Interstate Commerce by Robbery?

Yes _____

No _____

- b. Did the Government prove beyond a reasonable doubt that the defendant, Taeyan Raymond Williams, committed the crime of Interference with Interstate Commerce by Extortion?

Yes _____

No _____

Count 4: Kidnapping with Death Resulting

7. As to **Count 4**, Kidnapping with Death Resulting, how do you find the defendant, Scott Anthony Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 7 is "guilty," then do not answer Question 7a and proceed directly to Question 8. If your answer to Question 7 is "not guilty," then proceed to answer Question 7a.

- a. As to the lesser included offense to Count 4, Kidnapping, how do you find the defendant, Scott Anthony Williams?

Guilty _____

Not Guilty ☒

8. As to **Count 4**, Kidnapping with Death Resulting, how do you find the defendant, Taeyan Raymond Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 8 is "guilty," then do not answer Question 8a and proceed directly to Question 8. If your answer to Question 8 is "not guilty," then proceed to answer Question 8a.

- a. As to the lesser included offense to Count 4, Kidnapping, how do you find the defendant, Taeyan Raymond Williams?

Guilty _____

Not Guilty ☒

Count 5:**Possessing, Using, Carrying, and Brandishing a Firearm in Furtherance of or During and in Relation to a Crime of Violence or a Drug Trafficking Crime**

9. As to **Count 5**, Possessing, Using, Carrying, and Brandishing a Firearm in Furtherance of or During and in Relation to a Crime of Violence or a Drug Trafficking Crime, how do you find the defendant, Scott Anthony Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 9 is "guilty," then do not answer Question 9a and proceed directly to Question 9b. If your answer to Question 9 is "not guilty," then answer Question 9a.

- a. As to the lesser included offense to Count 5 of Possessing, Using, or Carrying a Firearm in Furtherance of or During and in Relation to a Crime of Violence or a Drug Trafficking Crime, how do you find the defendant, Scott Anthony Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 9a is "guilty," then proceed to answer Question 9b. If your answer to Question 9a is "not guilty," then do not answer Question 9b and proceed directly to Question 10.

- b. As to Scott Anthony Williams, which of the following offenses do you find was a crime of violence or drug trafficking offense in furtherance of which, or during and relation to which, this offense was committed? (Check all that apply)

____ Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances

____ Count 3: Interference with Interstate Commerce by Robbery

____ Count 4: Kidnapping with Death Resulting

10. As to **Count 5**, Possessing, Using, Carrying, and Brandishing a Firearm in Furtherance of or During and in Relation to a Crime of Violence or a Drug Trafficking Crime, how do you find the defendant, Taeyan Raymond Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 10 is "guilty," then do not answer Question 10a and proceed directly to Question 10b. If your answer to Question 10 is "not guilty," then answer Question 10a.

- a. As to the lesser included offense to Count 5 of Possessing, Using, or Carrying a Firearm in Furtherance of or During and in Relation to a Crime of Violence or a Drug Trafficking Crime, how do you find the defendant, Taeyan Raymond Williams?

Guilty _____

Not Guilty ☒

If your answer to Question 10a is "guilty," then proceed to answer Question 10b. If your answer to Question 10a is "not guilty," then do not answer Question 10b and proceed directly to Question 11.

- b. As to Taeyan Raymond Williams, which of the following offenses do you find was a crime of violence or drug trafficking offense in furtherance of which, or during and relation to which, this offense was committed? (Check all that apply)

_____ Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances

_____ Count 3: Interference with Interstate Commerce by Robbery

_____ Count 4: Kidnapping with Death Resulting

Count 6: Possession with Intent to Distribute Controlled Substances

11. As to **Count 6**, Possession with Intent to Distribute Controlled Substances, how do you find the defendant, Scott Anthony Williams?

Guilty ☒

Not Guilty _____

If your answer to Question 11 is "guilty," then proceed to answer Questions 11a and 11b. If your answer to Question 11 is "not guilty," then do not answer Questions 11a and 11b and proceed directly to Question 12.

- a. As to the defendant, Scott Anthony Williams, do you find that the offense involved a mixture or substance containing cocaine, a Schedule II controlled substance?

Yes ☒

No _____

- b. As to the defendant, Scott Anthony Williams, do you find that the offense involved a mixture or substance containing marijuana, a Schedule I controlled substance?

Yes ☒

No _____

12. As to **Count 6**, Possession with Intent to Distribute Controlled Substances, how do you find the defendant, Taeyan Raymond Williams?

Guilty ☒Not Guilty ☐

If your answer to Question 12 is "guilty," then proceed to answer Questions 12a and 12b. If your answer to Question 12 is "not guilty," then do not answer Questions 12a and 12b and proceed directly to Question 13.

- a. As to the defendant, Taeyan Raymond Williams, do you find that the offense involved a mixture or substance containing cocaine, a Schedule II controlled substance?

Yes ☒No ☐

- b. As to the defendant, Taeyan Raymond Williams, do you find that the offense involved a mixture or substance containing marijuana, a Schedule I controlled substance?

Yes ☒No ☐

Count 7: Possession with Intent to Distribute Controlled Substances

13. As to **Count 7**, Possession with Intent to Distribute Controlled Substances, how do you find the defendant, Scott Anthony Williams?

Guilty ☒Not Guilty ☐

If your answer to Question 13 is "guilty," then proceed to answer Question 13a. If your answer to Question 13 is "not guilty," then do not answer Question 13a and proceed directly to Question 14.

- a. What amount of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, do you find that Scott Anthony Williams possessed with the intent to distribute? (Check only one of the options below)

☒ 500 grams or more☐ Between 50 grams and 499 grams☐ Less than 50 grams

Count 8: Possession of a Firearm in Furtherance of a Drug Trafficking Crime

14. As to **Count 8**, Possession of a Firearm in Furtherance of a Drug Trafficking Crime, how do you find the defendant, Scott Anthony Williams?

Guilty ☐Not Guilty ☒

If your answer to Question 14 is "guilty," then proceed to answer Question 14a. If your answer to Question 14 is "not guilty," then do not answer Question 14a and proceed directly to Question 15.

- a. Which of the following offenses do you find was a drug trafficking offense in furtherance of which the firearm was possessed, used, or carried? (Check all that apply)

☐ Count 6: Possession with Intent to Distribute Controlled Substances
☐ Count 7: Possession with Intent to Distribute Controlled Substances

Count 9: Conspiracy to Destroy or Conceal Evidence

15. As to Count 9, Conspiracy to Destroy or Conceal Evidence, how do you find the defendant, Scott Anthony Williams?

Guilty ☒

Not Guilty ☐

The foregoing constitutes the unanimous verdict of the jury.

5.11.2023

DATE


FOREPERSON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

SCOTT ANTHONY WILLIAMS,
Defendant.

Case No. 8:18-cr-00631-TDC-1

Greenbelt, Maryland
August 22, 2023
9:31 a.m.

SENTENCING HEARING
BEFORE THE HONORABLE THEODORE D. CHUANG

A P P E A R A N C E S

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P R O C E E D I N G S

(Call to order of the Court.)

THE COURTROOM DEPUTY: All rise. The United States District Court for the District of Maryland is now in session, the Honorable Theodore D. Chuang presiding.

THE COURT: Thank you, everyone. Please be seated.

THE COURTROOM DEPUTY: The matter now pending before this Court is Criminal Action No. TDC-18-0631, United States of America v. Scott Anthony Williams. We are here today for the purpose of a sentencing hearing. Counsel, please identify yourselves for the record.

MS. GROSSI: Good morning, Your Honor. Leah Grossi, Assistant U.S. Attorney on behalf of the United States. Here with me at counsel's table is Michael Hanlon and William Moomau, also on behalf of the United States.

THE COURT: Good morning.

MR. HAWKS: Good morning, Your Honor. Kwasi Hawks and Mr. Dwight Crawley on behalf of Mr. Scott Williams, who is seated between us.

THE COURT: Good morning. Hold on one second.

Okay. So we are here for a sentencing in United States v. Scott Williams. On May 11, 2023, Mr. Williams was found guilty after trial on Count One, conspiracy to distribute and possess with intent to distribute controlled substances, in violation of 21 United States Code, Section 846;

1 in Count Six of possession with intent to distribute controlled
2 substances, cocaine and marijuana, in violation of 21 U.S.C.,
3 Section 841(a)(1) and (b)(1)(c); also Count Seven, possession
4 with intent to distribute 500 grams or more of methamphetamine,
5 in violation of 21 U.S.C., Section 841(a)(1) and (b)(1)(a), and
6 then, Count Nine, conspiracy to destroy and conceal evidence, in
7 violation of 18 U.S.C., Section 1512(c)(1) and (k).

8 I have received and reviewed the following documents
9 in connection with today's proceedings: First, the revised
10 presentence report, which is ECF 248; the government's
11 sentencing memorandum and attachments, which is ECF 253; the
12 victim impact statements and letters submitted by the
13 government, which is ECF 251; the defendant's sentencing
14 memorandum, which is with ECF 255; the defendant's motion to
15 exclude victim testimony, ECF 260; the defendant's letters,
16 which is ECF 261; the government's response to the defendant's
17 sentencing memorandum, which is ECF 263; the government's
18 opposition to the motion to exclude victim testimony, which is
19 ECF 264; the motion for an order of forfeiture, which is ECF
20 252; there is also a recent filing, ECF 260, seeking -- well,
21 no, I'm sorry, that's not it -- the more recent filing regarding
22 a motion for leave to make an untimely notice, ECF 266; as well
23 as some additional -- which included additional letters and a
24 request for additional testimony.

25 Is there anything else I should have received?

1 MS. GROSSI: Not from the government, Your Honor.

2 MR. HAWKS: No, Your Honor.

3 THE COURT: Okay. Well, why don't we start with some
4 of these more preliminary motions. First off, we have the
5 motion to exclude victim testimony. Does anyone want to say
6 anything further on that issue?

7 MR. MOOMAU: For the government, Your Honor, I think
8 we said it all in the response that we filed in opposition. No,
9 unless the Court has specific questions, which we would attempt
10 to answer. Thank you.

11 THE COURT: Of course.

12 Mr. Hawks.

13 MR. HAWKS: And the same, Your Honor. Thank you.

14 THE COURT: Okay. So I understand the argument in the
15 motion basically is whether the family of Noah Smothers
16 qualifies as a victim, or Mr. Smothers qualifies as a victim
17 within the meaning of various federal statutes. The government
18 has noted that regardless of whether they meet that definition,
19 there is certainly no limitation on hearing statements by
20 individuals with some relevance to the case regardless of that.

21 So the Court's not going to make a finding on whether
22 Noah Smothers specifically qualifies as victim within the
23 meaning of the various federal statutes. I will in my
24 discretion permit the various proposed victim family members to
25 speak, as is customary. Usually, anyone with an interest in the

1 case at least has -- certainly has the ability to make
2 statements at sentencing if either side is going to present
3 them.

4 So I will deny the motion, and I do find, in addition
5 to just that general discretion, that as has been noted in the
6 papers, both parties agree under the prevailing law, acquitted
7 conduct is not categorically excluded from consideration at
8 sentencing for various enhancements under 18 U.S.C. 3553(a), and
9 there are at least some arguments that the death of Mr. Smothers
10 is relevant conduct to some of the offenses of conviction.

11 So I do find some relevance of the testimony
12 regardless of whether there is a technical match with the victim
13 statutes. So I will consider statements both in writing and in
14 person. I will, of course, consider them only to the extent
15 that the Court makes findings that the death of Mr. Smothers is
16 connected in some ways to the convictions. So that motion,
17 which I believe is ECF No. 260, will be denied.

18 There is also this motion for a late filing, and just
19 to understand, I mean, Mr. Hawks, I appreciate you acknowledging
20 that the order specifically gives deadlines. There are letters
21 that came in, there is also a witness. Maybe you can just give
22 me more clarity on why those were not available prior to the
23 deadline.

24 MR. HAWKS: Your Honor, the letters were associated
25 with individuals who, while I greatly appreciate their candor in

1 the letters, they also have significant disagreements with
2 Mr. Williams. Essentially, there is a lot of commonality
3 between the two Defendants. However, there is not perfect
4 commonality between the two Defendants, and to the extent that
5 the authors of that those letters favored one of the parties, it
6 was not this Mr. Williams. And so I didn't anticipate that they
7 would have positive things to say. I'm very gratified to them
8 that I was wrong, but that's why, you know, they weren't
9 produced in time.

10 THE COURT: Okay. And then the witness you want to
11 bring with forward I think is Ms. Chaplin, who testified at the
12 trial.

13 MR. HAWKS: Yes, Your Honor.

14 THE COURT: And she's probably in a different
15 relationship category, so is she someone who could have been
16 identified earlier than the most recent filing?

17 MR. HAWKS: That's certainly true, Your Honor.
18 Your Honor, she's not here, and we've had very uncertain
19 communications with her. At this point, I'm not certain that
20 she will be available to testify, but that ruptured
21 communication is why it was a late filing, and ...

22 THE COURT: So you're saying that the relationship is
23 a little bit -- well, maybe not a little bit, but there are some
24 difficulties in communication because of --

25 MR. HAWKS: Yes, Your Honor. And so earlier -- after

1 the trial, there was a belief that she would not participate --
2 very, very recently, on -- last Friday, there was an indication
3 that she would, and in an abundance of caution, I sought
4 permission of the Court.

5 THE COURT: Okay. Any issues on this from the
6 government, in terms of the late notice?

7 MS. GROSSI: No, Your Honor. We have the filing, and
8 we have read it.

9 THE COURT: Okay. Well, I often say, you know, just
10 to have things work smoothly, and frankly, in fairness to both
11 sides as well as the Court, I do ask that the parties meet these
12 deadlines if at all possible. I do understand there are some
13 difficulties in communication, and there's also some individuals
14 who have -- are relevant to the case but for whom, perhaps, the
15 relationship between Mr. Williams and they are not ideal, so
16 based on Mr. Hawks' representations, I will allow the letters,
17 which I have reviewed. And if Ms. Chaplin wants to make a
18 statement, we'll allow that as well; we'll see how that goes.

19 One other somewhat preliminary matter, but just so I
20 can get some clarity on this, the government's motion for a
21 preliminary order of forfeiture I don't believe was opposed. In
22 a plea agreement case, it's usually clear if it's agreed to. I
23 don't know what the defense's position is on that. It seems as
24 if the items are, I think, firearms and so forth, so I don't
25 know if there's any opposition to that; is there?

1 MR. HAWKS: There is no opposition, Your Honor.

2 THE COURT: Okay.

3 Okay, so I guess the next step is the guidelines
4 calculation. I have read and reviewed the presentence report.
5 Mr. Hawks and Mr. Crawley, have you had the opportunity to
6 review that with your client, and do you have any remaining
7 objections to it that are not already identified in the
8 presentence report?

9 MR. HAWKS: No, Your Honor.

10 THE COURT: And as I understand it, the primary issues
11 to decide on the guidelines are, first, whether there's an
12 enhancement based on first or second degree murder. Then, to
13 the extent -- well, depending on that ruling, or maybe not
14 depending on that ruling, there's also potentially disagreements
15 on -- well, I don't believe there's a disagreement on the drug
16 quantity, if that comes up, nor is there a disagreement on
17 maintaining a premises for distributing controlled substances,
18 nor on obstruction of justice.

19 I think there is a disagreement on the enhancement for
20 using violence or directing the use of violence, is that right,
21 or is there some other --

22 MR. HAWKS: Yes, Your Honor. The disagreements we
23 have are on the maintenance as a drug trafficking -- maintenance
24 of the premises as a drug trafficking, the use of violence, so
25 that the only thing we are not disputing is the obstruction of

1 justice. In fact, we have a disagreement on the firearms.

2 So the only thing -- our contention is that it's a 32,
3 the drug quantity, which we agree with the category, and then
4 the two levels for the obstruction.

5 THE COURT: Okay. I thought I did not -- so there's
6 no disagreement if we're getting to the drug quantity on the
7 amount, correct?

8 MR. HAWKS: Correct, Your Honor.

9 THE COURT: And then, I thought there was no
10 disagreement on the maintaining premises, but I guess I'm
11 mistaken on that; there is a dispute?

12 MR. HAWKS: Yes, Your Honor.

13 THE COURT: Okay. And then I knew there was a
14 disagreement on violence as well as the firearm, correct?

15 MR. HAWKS: Yes, Your Honor.

16 THE COURT: Okay.

17 Okay. So now, on the death resulting -- rather, the
18 enhancements for first and second degree murder, possible
19 enhancements for that, I've read the briefs. Does anybody have
20 anything else they want to add on that? I might have a few
21 questions I might want to ask, but does anybody have anything
22 affirmatively to offer on those issues?

23 MS. GROSSI: Your Honor, the government has put their
24 arguments in the sentencing memo, but I am ready for any
25 questions you might have.

1 THE COURT: Okay. Why don't we start with the
2 government, since they're the ones who effectively are asking
3 for this enhancement. Just so I understand, the government's
4 position is that the enhancement for first degree murder should
5 apply, not second. Probation has proposed second. And maybe
6 you can clarify for me, is there -- what is the theory you're
7 pursuing; is it that there is evidence of premeditation, and
8 what is that, is it felony murder only, and if so, what is that?
9 As I read it, you are arguing the kidnapping and the robbery
10 were the predicates for a felony murder theory, but which or
11 both of those theories are you pursuing?

12 MS. GROSSI: Your Honor, we're pursuing both, that
13 there was premeditation and that there also was a felony murder.
14 The premeditation evidence was presented at trial and produced
15 through exhibits at trial. There was testimony that it wasn't
16 just, you know, a moment of passion that he decided to stab
17 Mr. Smothers to death. Mr. Musa testified that
18 Mr. Scott Williams decided that he didn't want to shoot the
19 victim, that would be too loud; he wanted to stab him and
20 prevent him from coming after him.

21 There was also exhibits that corroborated a lot of
22 what Mr. Musa testified to with regard to the location of the
23 defendant and the victim being near the Red Roof Inn and then
24 being back at Bristolwood. There's also all of the
25 corroborating evidence that was shown through the surveillance

1 footage, showing Mr. Scott Williams' vehicle being in the
2 Baltimore parking lot, dropping off the rental car of
3 Mr. Smothers, which contained a large amount of blood, similar
4 to what Mr. Musa said was a stabbing of the body.

5 THE COURT: Can I just go back to the key point on --
6 my first question is just premeditation. So you said there was
7 testimony. Other than Mr. Musa's testimony, is there any
8 testimony that supports a theory of premeditation?

9 MS. GROSSI: There was testimony from Mr. Cox,
10 Your Honor, that Mr. Smothers was going up to Baltimore to
11 settle this debt, and so the defendant -- both Mr. Taeyan
12 Williams and Mr. Scott Williams were planning to meet with
13 Noah Smothers to settle that debt. And that was Mr. Cox's
14 testimony as well as Mr. Rayburn's testimony; he knew that there
15 was going to be this meeting in Baltimore between the defendants
16 and Mr. Smothers.

17 THE COURT: Okay. And then, besides Mr. Musa -- well,
18 Mr. Musa's testimony, if I recall correctly, though, even if one
19 were to accept that entirely, was that there was a plan to rob.
20 I don't recall him saying there was a plan to kill at the
21 outset, that at some point, there was a decision made. Am I
22 correct about that, that it wasn't -- that that's how he framed
23 it?

24 MS. GROSSI: I believe so, yes, Your Honor. Mr. Musa
25 said that they had planned to -- they had a pretext to meet

1 Mr. Smothers, that they were going to say it was a drug deal,
2 but really, they were going to rob him of the marijuana. And
3 then, when they robbed him, they were asking him questions, they
4 wanted information about the storage unit, they tortured him for
5 that information, they robbed him both physically of his phone
6 and other items and then also went to the storage unit, where
7 they also took all of those items from Mr. Smothers' storage
8 unit.

9 However, I do think that the premeditation doesn't
10 have to be a long period of premeditation, Your Honor; I believe
11 it doesn't have to be that they planned this for weeks. There
12 was a conscious decision at one point that Mr. Scott Williams
13 made to kill Mr. Smothers, and -- sorry, there was a decision by
14 Mr. Scott Williams to make the decision to kill Mr. Smothers, it
15 wasn't a back and forth, and that was communicated to Mr. Musa,
16 who then testified about it in court.

17 THE COURT: Well, but -- I mean, I don't think anybody
18 briefed this extensively, I'm not sure the guidelines cover it
19 greatly, but again, I understand premeditation, I understand the
20 felony murder theory, which is the robbery, I guess, or the
21 kidnapping, second degree, which I assume is your fallback
22 argument. What is the distinction between the state of mind for
23 that versus, as you said, voluntary -- you know, sort of a crime
24 of passion, which is sometimes referred to as voluntary
25 manslaughter, which does not qualify for this enhancement?

1 So what's the difference between sort of a spur of the
2 moment because of an argument or so forth versus something else
3 that qualifies as second degree but not first degree?

4 MS. GROSSI: Your Honor, under Sands in the model jury
5 instructions, it says that premeditation, the government must
6 prove that the defendant killed only after thinking the matter
7 over, deliberating whether to act before committing the crime,
8 and that's what we're saying here, Your Honor, is that he
9 consciously made the decision to kill Mr. Smothers.

10 It wasn't a fight or something where he --
11 Mr. Smothers acted first; Mr. Williams decided that he wanted to
12 end Mr. Smothers' life, and he also thought about the manner in
13 which he did it. He didn't just, you know, do it without
14 thinking about it; he deliberated and thought, okay, I'm going
15 to use a knife instead of a firearm.

16 THE COURT: But the evidence of that is Mr. Musa,
17 right? There's no one else who said that or even other physical
18 evidence that shows this deliberation you're referring to,
19 whether it's enough for first or second degree?

20 MS. GROSSI: Well, Your Honor, I believe there is
21 evidence, corroborating evidence in the amount of blood that was
22 in the rental car as well as the DNA that was found in the
23 firearm that was at Mr. Williams' residence. So the DNA of
24 Mr. Smothers that was within the barrel of the firearm was
25 consistent with sticking it down his throat or in his mouth and

1 torturing him for information.

2 There wasn't -- oh, I think Mr. Musa testified that
3 Mr. Scott Williams attempted to clean the firearm on the
4 outside, but I think there is corroborating evidence in that
5 regard with regard to the amount of blood that was in the Kia
6 and then also with the DNA that was in the firearm.

7 THE COURT: Let me ask you a different question, then.
8 Mr. Musa's testimony -- I mean, you may or may not want answer
9 this as a matter of trial strategy, but I am curious, and it is
10 helpful to me to understand. It was pretty unusual in this case
11 that in the opening statement, I don't think there was any
12 reference to Mr. Musa by the government. In the closing
13 argument, there were few references. There was no real attempt
14 to try to argue his overall credibility. There were some
15 arguments that there was some evidence consistent with his
16 testimony.

17 I mean, in my experience, that's a very limited sort
18 of -- efforts to use that testimony and focus the jury on that
19 testimony, and I don't know what the reason was for that. Maybe
20 you can enlighten me, because right now, you're relying heavily
21 on his testimony for this enhancement, and you didn't -- you
22 almost ran away from it in trial, so maybe you can just explain
23 for me why -- how do I reconcile those two things?

24 MS. GROSSI: Your Honor, I think we did acknowledge
25 that he had been convicted of crimes of dishonesty, and so we

1 were trying to beef up his testimony and corroborate it as much
2 as we could. And so that's what we did. When we first met with
3 him, we heard him out. We weren't sure what we were going to
4 get when we proffered with him, but then we looked at the
5 evidence, and all of it was consistent with what he said. So we
6 focused very strongly on the hard evidence that we had, and the
7 business records, and in the physical evidence at trial to show
8 that all of this combined with -- even without Mr. Musa's
9 testimony was consistent with the charges that we brought
10 against the defendant.

11 THE COURT: Okay. Let me ask you a different
12 question. I think I'm right about this, but I want to make sure
13 I'm not missing something. The enhancement you're seeking for
14 the -- let me make sure I have this right.

15 There is a potential enhancement just to basically use
16 2A1.1. or 2A1.2, which -- that enhancement is covered in 2D1.1
17 as a possibility if the facts show first degree murder or second
18 degree murder. I am aware from 2D1.1 that there are
19 enhancements -- other enhance- -- well, there's at least one
20 other type of enhancement for a death resulting from a drug
21 trafficking conspiracy where the death resulted from the use of
22 the substance.

23 And that usually comes up in these cases where someone
24 overdoses on the drugs at issue, and that leads to a very
25 significant enhancement, frankly, comparable to the ones that

1 we're referring to now. I don't think there's any argument, am
2 I correct, that that applies, because there's no claim that the
3 victim died as a result of taking the substance, correct?

4 MS. GROSSI: That's correct, Your Honor.

5 THE COURT: Are you aware of any other form of
6 enhancement for a death resulting -- other than the three we're
7 talking about, the first degree murder, second degree murder, a
8 death resulting from the use of the substance?

9 (Conference among Ms. Grossi, Mr. Hanlon, and Mr. Moomau.)

10 MS. GROSSI: Sorry, Your Honor; I was just consulting
11 with my co-counsel.

12 THE COURT: Sure, mm-hmm.

13 MS. GROSSI: We're not aware of any other. We thought
14 maybe manslaughter, but I don't know if that actually is
15 applicable, because this didn't happen on government land. So
16 under the 2D1.1 cross-reference, I believe that that is the only
17 one, as well as the taking of the substance, Your Honor.

18 THE COURT: Okay, thank you.

19 Okay. Mr. Hawks, anything you want to add?

20 MR. HAWKS: Yes, Your Honor, briefly. Just to ensure
21 that the record is clear, government counsel has indicated that
22 the statements of Mr. Musa were corroborated. That's not true.

23 THE COURT: Well, I think she was referring to the --
24 the firearm with the DNA corroborates some parts of his
25 testimony, as well as the testimony about, you know, the blood

1 in the back of the vehicles, so I think that's what she was
2 referring to, but you're referring to somebody else?

3 MR. HAWKS: Yes, Your Honor. I guess, I would go
4 further; I think she also was referring to, for example,
5 geolocation data, which also indicated that you can -- you can
6 draw a circle about a quarter to a half mile wide and put both
7 gentlemen within that circle within a 20- or a 30-minute period,
8 and that's not corroboration. I mean, that's -- that provides
9 an opportunity -- essentially, it doesn't exclude the
10 possibility that his statement could be true, but it certainly
11 doesn't corroborate it or confirm that it is true.

12 She talked about business records just now. I think
13 she's referring to the records -- we had the guard captain from
14 CDF come down and essentially confirm, and at least half of the
15 records are after, at least a year after the time that Mr. Musa
16 made his proffer, but they confirm that Mr. Williams and
17 Mr. Musa were in the same place at CDF jail. So they really
18 proved nothing, because long after he had talked to them, then
19 they can put these two together.

20 In fact, the place where Mr. Williams and Mr. Musa met
21 was in the law library, where Mr. Musa pored over the case
22 records of Mr. Williams at Mr. Williams' behest, and it was
23 there that he saw the physical evidence that had they're arguing
24 now has been corroborated and had ample opportunity to provide
25 essentially a fill-in-the-gap.

1 And so it's sort of like if I were to say, last
2 weekend, I went to the moon, and I can tell you, it's gray, it's
3 roughly a quarter million miles away, and there's no air there,
4 and then later, someone says, he must have gone, because
5 everything he says is corroborated by astronomical data. It's
6 not; I had the opportunity to look up those facts and then feed
7 them to someone who was looking for an answer.

8 THE COURT: I'm not sure Mr. Musa testified to all
9 that. I think that's been your argument, but I don't know if he
10 laid out in specific detail how much paper he reviewed and what
11 he didn't review, correct?

12 MR. HAWKS: Your Honor, he agreed that he met with
13 Mr. Williams, that he had an opportunity to review discovery,
14 and that --

15 MS. GROSSI: No.

16 MR. HAWKS: -- that he was -- that Mr. Williams was
17 seeking advice from him legally.

18 THE COURT: Okay. Well, I guess the record will
19 control that. Anything else you want to offer?

20 MR. HAWKS: Your Honor, there's nothing that the
21 government presented in the trial or today which -- you asked a
22 number of questions about premeditation. Not only can they not
23 establish premeditation; all of the corroboration that they're
24 looking at does a very good job of establishing that
25 Mr. Williams, after the death or disappearance of Mr. Smothers,

1 was involved.

2 He allowed drugs to be stored in his home, he allowed
3 his car to be used. None of those things, not only don't they
4 establish premeditation, none of those things establish prior
5 knowledge or participation in the event, whatever it was, that
6 led to the injury or death of Mr. Smothers.

7 And so -- for example, the blood in the car. This is
8 a car that's been seized by a Baltimore policeman, who visually
9 inspected it and turned it over to Enterprise Rental Car, who
10 then rented it to a pregnant woman. And I highlight that she's
11 pregnant, that she probably is a little bit more aware of,
12 for example, blood than a normal person would be. She's
13 probably even thinking, I don't want to get in a car that maybe
14 had a murder committed in it.

15 If it was apparent to someone that that's what had
16 happened in that car, it would have been apparent to a policeman
17 who inspected it, to a cleaning team at Enterprise Rental Car
18 who cleaned it, and then to a renter. It -- you know, this idea
19 that there was blood all over the car is not reflective of the
20 evidence. In fact, the best evidence of that was this photo
21 that they admitted was enhanced, after they poured luminol, a
22 specific chemical, and it showed a large pattern of blood.

23 And that, you know might seem shocking, but if I were
24 to take a can of soda and pour it on this table, it would cover
25 the table, and that's a can of soda. The idea that chemically

1 enhanced blood in the back of the car is visible can clearly
2 establish that there's been a murder does not follow.

3 And so Your Honor, the government, sort of like an old
4 detective show, has provided means, they found a gun;
5 opportunity, we can draw this circle and we can have this period
6 of time where we can put these two gentlemen roughly in the same
7 geographical area; and motive, robbing drug dealers is
8 lucrative. So means, opportunity, motive. We're done. But
9 that's the beginning of the inquiry, not the end, Your Honor.

10 THE COURT: Well, would you agree that under the
11 felony murder theory, though, one does not need to show
12 premeditation, one just needs to show he was involved in a
13 robbery, or a kidnapping, and that someone died as a result of
14 all that, and that would be enough, correct?

15 MR. HAWKS: I absolutely agree with that, Your Honor;
16 that's why I stress, not only do they not show premeditation,
17 they don't show prior participation. There is nothing in this
18 case that would establish that this scenario not only is false
19 but is preponderantly not false. Taeyan Williams walks in on
20 the night of the 7th or the 6th of April, and he says, An uncle
21 of mine and I were engaged in a drug deal with that guy from
22 California, and something went very wrong, and he's hurt, and we
23 need your help. And he uses a car, he uses --

24 THE COURT: There is no evidence of any of that, is
25 there? I mean, I don't remember Taeyan Williams saying anything

1 like that.

2 MR. HAWKS: No, Your Honor, that's -- I'm just saying,
3 the burden of proof in this case rests with the government, and
4 there's nothing that they can say that can tell us that didn't
5 happen. That's as consistent with all the evidence that they
6 talk about as any other scenario, and I would submit that, you
7 know, outside of Alfred Musa, who is comically unreliable,
8 no one said anything about what happened at any point; all we
9 have is coincidences of location between a various number of
10 people.

11 And so yes, Your Honor, I don't have any evidence that
12 Taeyan said that, but they don't have any evidence that Taeyan
13 didn't say that, or never said that at all, that he knew where
14 the keys were and took them and a friend and drove and dropped
15 off the car. And so Your Honor, for all those reasons, this
16 idea that they have established, on the basis of Alfred Musa,
17 preponderant proof that he has any involvement in any injury or
18 death of Mr. Smothers is false.

19 And Your Honor, one last point; they said -- this is
20 also corroborated by Connor Cox. Connor Cox never said anything
21 about Scott Williams; he said, Taeyan Williams and some
22 Jamaicans, he's going to meet Taeyan Williams and some
23 Jamaicans. Later, he said he's going to meet some Jamaicans.
24 We know that Connor Cox, in Exhibit 340A, had a meeting with
25 Taeyan Williams and another uncle, a maternal uncle, who is

1 Jamaican. The idea that Connor Cox ever implicated Scott
2 Williams, again, Your Honor, is false.

3 THE COURT: Okay. Well, Mr. --

4 MR. HAWKS: May I briefly --

5 THE COURT: Sure. I'm going to ask Ms. Grossi a
6 question; she has a comment anyways.

7 (Conference among Mr. Hawks, Mr. Crawley, and defendant.)

8 THE COURT: I'll just make sure that he can hear what
9 we're saying, so just give us a moment.

10 (Pause.)

11 MR. HAWKS: Your Honor, and just to the extent that a
12 neutral arbiter has reviewed this, the jury clearly understood
13 the value of Mr. Musa's testimony, and they clearly rejected him
14 outright; every single charge that relied on him was not only
15 rejected but rejected summarily. And so Your Honor, we would
16 just argue that it's not that they just missed; it's -- they're
17 not even in preponderant standard.

18 THE COURT: Okay. Ms. Grossi, one thing that
19 Mr. Hawks' argument reminded me I should ask you about, just to
20 get your interpretation of the evidence on this, is that since I
21 do believe that the enhancement relies heavily on Mr. Musa in
22 terms of the premeditation, in terms of the fact that it was a
23 robbery or kidnapping as opposed to some other interaction, one
24 thing that I read the record to be inconsistent on is that
25 Mr. Musa -- and I don't -- I'm not going to assume that he has

1 to have every fact correct.

2 I mean, under your theory, he's getting this from
3 Scott Williams, who's telling him whatever he's willing to tell
4 him and so forth, there's memory issues, but even so, his
5 argument was that Taeyan Williams and Scott Williams had this
6 plan to rob, they did the robbery. When they got the
7 information they needed, then they go off to the storage
8 facility, leave Mr. Smothers in his car with this third person
9 who is unnamed, and get the drugs and so forth.

10 Now, two things that we heard, two pieces of evidence
11 or lack of evidence that I would like to get your take on. One
12 is that it seemed undisputed from the forensic data and the
13 testimony that Mr. Taeyan Williams, that evening, at 7:00, he's
14 off to Tysons Corner, then he's going to University of Maryland.
15 How do you square that with your theory of how this all
16 happened?

17 And then relatedly, even though -- I mean, your theory
18 relies on a third person. We didn't hear anything about a third
19 person, other than I think Mr. Carty was not present in the
20 state, so it wasn't him, according to your evidence. But what
21 can I infer from this third person piece of who that could be or
22 how that's -- how Mr. Musa can be believed when we don't even
23 have any idea who this third person could be?

24 So those are the two things that I was wondering.

25 MS. GROSSI: Yes, Your Honor. This third person I

1 believe Mr. Musa had testified at trial or has told the
2 government was not detained at the time that he was speaking to
3 Mr. Williams, so Mr. Williams told Mr. Musa that that third
4 person was out and hadn't been found. We tried every avenue to
5 try to obtain the identity of that person.

6 They have brought up this other maternal uncle in
7 their papers, here, but never brought it up at trial. We also
8 got the cell site records for that person. That person was also
9 not in Maryland. And so we honestly, Your Honor, do not know
10 exactly who that third person is.

11 However, with regard to the location of Mr. Taeyan
12 Williams, there is cell site location showing that he was near
13 the storage facility at the time -- at Mr. Noah Smothers'
14 storage facility at the time he entered the address of that
15 storage facility. He then went to Tysons Corner, that's
16 correct, and then back to College Park, and then back to I
17 believe Bristolwood, but the time period for which that car was
18 dropped off in Baltimore, there is no cell site information for
19 either Mr. Taeyan Williams or Mr. Scott Williams, presumably
20 because their phones were turned off at that point.

21 We do have the testimony of Ms. Chaplin saying that
22 she had called -- or that she -- if she had called
23 Mr. Scott Williams at 2:00 a.m. in the morning, it would have
24 been that he would not have been home, and so we believe that
25 Mr. Scott Williams and Mr. Taeyan Williams drove the victims and

1 Mr. Scott Williams' rental car to that Baltimore parking lot,
2 dropped off the vehicle, and went home.

3 They both show cell site the next day, at I think like
4 12:00, much later in the day than -- anyone normally would have
5 turned on their phone earlier, but the phone wasn't on at that
6 point. I just also want to bring up, Your Honor, the fact that
7 it wasn't just Mr. Musa, as I mentioned, it was -- all of the
8 fruits of the robbery were at Mr. Williams' residence, including
9 that manifest that was found under his mattress, as well as all
10 of the marijuana from Mr. Smothers.

11 There were jail calls talking about the fact that
12 there was a private investigators onto them, he should have
13 destroyed all the evidence, and they didn't when they should
14 have.

15 There's all these computer -- there's computer records
16 showing that Mr. Scott Williams searched for the EZ Storage
17 facility that night, and then, there is also --

18 THE COURT: What time were those again, remind me, the
19 searches?

20 MS. GROSSI: I just have to look, Your Honor.

21 THE COURT: Right.

22 MS. GROSSI: So at 7:55 p.m., Your Honor,
23 Mr. Williams' phone was near Bristolwood Court, and at
24 7:59 p.m., a Google search for EZ Storage, Jessup was performed
25 on a computer that was later seized at that residence. About a

1 half hour later, at 8:37 p.m., EZ Storage surveillance footage
2 shows Mr. Williams' Nissan at the location and someone entering
3 Mr. Smothers' password to get into the facility.

4 THE COURT: Okay. But it's not part of your theory
5 that Mr. Taeyan Williams was actually going into the facility,
6 because we didn't see the car go there on the videos until after
7 he was at Tysons Corner, correct?

8 MS. GROSSI: Correct, Your Honor.

9 THE COURT: And am I correct that Mr. Musa's testimony
10 did not place Mr. Taeyan Williams -- I mean, you said there was
11 no evidence that he wasn't in the car going to Baltimore, but
12 that's not the story that Mr. Musa told; it was that it was
13 Mr. Smothers -- Mr. Scott Williams and someone else, the uncle.

14 MS. GROSSI: Correct, Your Honor.

15 THE COURT: Okay.

16 MS. GROSSI: Yes, that was his testimony.

17 THE COURT: But are you trying to argue that
18 Taeyan Williams was in this vehicle, contrary to Mr. Musa's
19 testimony?

20 MS. GROSSI: I believe Mr. Musa's testimony was about
21 the murder and not necessarily about bringing the car up to
22 Baltimore. So I think Mr. Musa testified that Mr. Taeyan
23 Williams was at Bristolwood while Mr. Scott Williams and this
24 third party went back and unfortunately, like, dismembered
25 Mr. Smothers and killed Mr. Smothers, but I don't believe there

1 was testimony about who actually drove up to Baltimore.

2 Your Honor, I do want to note that I didn't read the
3 whole section of the Sands for the premeditation. It does say
4 that there's no requirement for a particular period of time to
5 show the premeditation; it's just that the person becomes fully
6 aware of what he intended to do and to think it over before he
7 acted.

8 THE COURT: Am I correct, though, that the standard
9 you're asking me to make a finding by -- and admittedly, it's
10 under preponderance, but the elements I need to find are more
11 stringent than the jury was asked to find on the char- -- the
12 only charge involving the death was kidnapping with death
13 resulting.

14 And so it was really almost sort of a felony murder
15 type thing, that there was a kidnapping and there was a
16 causation element. There's nothing about state of mind,
17 premeditation, pre-deliberation. So not only are you asking me
18 basically to say that just because of the lower standard of
19 proof, the jury's -- basically, to reach the conclusion you
20 wanted the jury to reach, without having the jury reach it,
21 based on the lower standard, but you're also asking me to make a
22 finding of, frankly, a more difficult element to prove than was
23 presented to the jury, correct?

24 MS. GROSSI: Your Honor, we're advocating that we
25 believe there was premeditation, but there also was a felony

1 murder, Your Honor.

2 THE COURT: But you didn't even charge anything about
3 premeditation in front of the jury, you didn't even ask them to
4 consider that fact; you asked them only to show causation from
5 this other offense, and they didn't find that.

6 So again, you're asking me not only to, based on a
7 lower standard of proof, reach a conclusion contrary to the
8 jury -- which I understand is legally permissible -- but you're
9 also asking me to make a finding as to an element that you
10 didn't even present to the jury, which is a much higher
11 standard -- much harder element to prove, that they weren't even
12 asked to opine on, because it was -- I mean, I think we can
13 infer they wouldn't have found that, because they didn't find
14 the other conviction, but even so, you're asking me to go even
15 beyond what you presented to the jury, correct?

16 MS. GROSSI: Yes, Your Honor. There is the
17 alternative, the felony murder, which is different, but yes.

18 THE COURT: Okay.

19 Okay. Well -- so on this issue -- thank you for the
20 argument, and obviously, the written papers as well were very
21 helpful. I'll state at the outset -- and I think I've said this
22 in other sentencings -- I'm generally troubled by the notion
23 that a defendant acquitted of a crime may then be sentenced in a
24 manner that effectively gives him the exact same sentence that
25 he would have received had he been convicted.

1 I recognize the law requires me to consider whether
2 certain acquitted conduct has been proven by a preponderance of
3 the evidence -- which is lower standard -- and then apply
4 enhancements accordingly, and I certainly understand the logic
5 behind that. So that is what I'll do, I'll apply that standard.

6 In doing so, based on the law, I cannot and will not
7 dismiss the conduct that the government is advocating I consider
8 here just because the jury acquitted on that conduct, because of
9 this different burden of proof, and also because there are
10 specific elements that have to be proven for a conviction that
11 may not be the same elements that we're looking at here.

12 For example, the charges on which there were
13 acquittals generally require not just a death of a victim but
14 also a robbery, or an extortion, or a kidnapping have been
15 proven as well. So in the one sense, there are elements that
16 had to be proven there that I don't necessarily need to find to
17 make this enhancement. On the other hand, the government is
18 also asking me to make findings on elements weren't presented to
19 the jury that are harder to prove, as I just stated, such as
20 things like premeditation.

21 So it is to some degree an independent review -- or it
22 is an independent review, but I -- in situations like this --
23 because as I said, I think there's a real issue -- in some cases
24 there may be scenarios where, you know, we're taking about a
25 slight enhancement because of a certain amount of drugs that was

1 not presented at trial but that we're now trying add on to it to
2 go up a level, or maybe in the presence of a firearm, but when
3 you're talking about trying to say that someone who was not
4 convicted of a crime involving killing somebody is going to be
5 sentenced in the same way because of this lower standard,
6 I think we have to be very careful about how we do that.

7 Again, so I will look at that new standard that I need
8 to apply here, but I also consider the jury's verdict to the
9 extent -- not that I am going to choose to apply their standard,
10 the standard presented to them, the burden of proof, but the
11 jury's verdict is instructive, and it causes me to consider
12 arguments and ways of looking at the evidence that need to be
13 considered that may have been the way that they looked at them
14 but I may not -- I have not otherwise focused on.

15 So that verdict is relevant, but as we said, it's not
16 dispositive. But it does require me to consider very seriously
17 counterarguments that may have convinced the jury in looking at
18 this evidence and to make the determination, again, on a
19 preponderance of the stand- -- evidence basis but within mind of
20 all the various arguments that can be made, some of which were
21 apparently convincing at least in some fashion.

22 So when I consider all the evidence, I reach three
23 primary conclusions. First, I do find that Mr. Smothers' death
24 was connected to the drug conspiracy as the charge of conviction
25 in Count One. The forensic evidence from the vehicle,

1 Mr. Smothers' disappearance makes it clear that he has died.

2 The timing and locations of Mr. Smothers' phone makes
3 it clear that his death was connected to the drug conspiracy in
4 some way. The phone records show that he went to meet -- or at
5 least they support a fair inference by a preponderance of the
6 evidence that he went to meet Scott Williams and Taeyan Williams
7 on the day of his disappearance. And the fact that Scott
8 Williams' car is later seen at the storage facility and the drug
9 manifest ends up in his house, along with some of the drugs,
10 supports the inference that somehow, he was killed or died in
11 relation to the drug conspiracy.

12 Second, I find that Mr. Scott Williams, at a minimum,
13 helped to cover up this killing by either using or allowing the
14 use of his car to help dispose of Mr. Smothers' car. That's
15 pretty apparent from the video evidence, the license plate
16 reader, and so forth.

17 Third, I do find that Mr. Williams, at a minimum, took
18 advantage of the situation by taking control of Mr. Smothers'
19 drugs after his death.

20 But I'm not going to make a finding that the death was
21 either first degree murder or second degree murder for which
22 Mr. Williams should receive the sentencing enhancement, whether
23 because it was premeditated or intentional or because it
24 occurred in the course of a robbery or kidnapping.

25 The facts on exactly what happened, who did what, and

1 what the circumstances were have not been proven to the
2 requisite level. The only coherent account of specifically what
3 happened that night is of Mr. Musa, and that suffers from
4 various flaws, first in light of Mr. Musa's fraud history and
5 false statement history, including making statements in filings
6 that were made under penalty of perjury that proved to be false.

7 Some corroboration was necessary, but the government
8 did not explain how the key facts for this enhancement were
9 corroborated in a way that demonstrates that Mr. Smothers died
10 in the manner described.

11 I found it telling that unlike in most trials
12 involving cooperators, where the government goes to great
13 lengths to try to support the testimony of the cooperator, the
14 government made little effort to explain why the jury should
15 believe Mr. Musa; it didn't even mention him in the opening
16 statement, barely mentioned him in the closing argument, and the
17 jury clearly did not believe him, for better or for worse,
18 perhaps because it was pretty clear the government was not
19 willing to stand behind his testimony.

20 So I do find that more was required. And
21 unfortunately for the government, there remain unanswered
22 questions. The timeline as described by Mr. Musa does not fully
23 match up with the visits by Mr. Williams' car to the storage
24 facility, and Taeyan Williams' activities on April 6, 2018, and
25 with the lack of other evidence there was violence at the Red

1 Roof Inn.

2 His account involves a third individual, but there's
3 no evidence about that person. And then, the fact that there
4 was a third person, under the government's theory, opens -- even
5 under government's theory opens the possibility that the killing
6 was the responsibility of that third person, including that the
7 firearm found in Mr. Williams' house was the responsibility of
8 someone other than one of the two defendants.

9 So it's not exactly clear how Mr. Smothers died,
10 whether there was a robbery or a kidnapping before he died as
11 described by Mr. Musa, who was directly responsible, what was
12 the state of mind of everyone involved at the time, was it even,
13 as we said, a crime of passion versus a premeditated murder,
14 which would qualify as voluntary manslaughter and therefore
15 would not qualify for the enhancement. It's also not clear how
16 reasonably foreseeable this was as part of the drug conspiracy,
17 to the extent that that would be a pact-less enhancement.

18 So I'm not going to apply the enhancement, but I do
19 conclude that Mr. Smothers' death makes the nature and
20 circumstances of this drug conspiracy significantly more
21 serious, because it was not an ordinary marijuana conspiracy.
22 And I will consider that fact under 18 U.S.C. 3553(a). I also
23 find that Mr. Williams had -- clearly had some role in covering
24 up the killing, based on the fact that his vehicle was used to
25 help get rid of Mr. Smothers' car, and at a minimum, he

1 deliberately took advantage of the situation by taking over Mr.
2 Smothers' drug shipment for himself and for Taeyan Williams,
3 knowing that Mr. Smothers was dead. Those are significantly
4 aggravating factors, and they will be considered under 18 U.S.C.
5 3553(a).

6 Now, as for the remaining guidelines calculations, I
7 do find and the parties agree that the drug quantity involved is
8 at least 1,000 kilograms of converted drug weight, including as
9 outlined in the government's sentencing memorandum the cocaine
10 and methamphetamine found at Mr. Williams residence, the
11 marijuana and cocaine sold as part of the regular transactions
12 to Mr. Diaz, the marijuana seized from Taeyan Williams' hotel
13 room in West Virginia, and the remaining drugs shipped by
14 Mr. Rayburn in April 2018, even factoring the possibility of
15 some double-counting in there. It does not include other
16 shipments by Mr. Rayburn, so that is a conservative number,
17 which leads to a base offense level of 30, for which the
18 methamphetamine alone is sufficient.

19 Does anyone want to offer anything else on any of the
20 other enhancements, or ...

21 MS. GROSSI: Your Honor, with regard to the
22 enhancement with the drug residence, the majority of these drugs
23 were found at his residence. There was testimony from Mr. Diaz
24 and Mr. Drummond about the fact that they had done pickups and
25 drop-offs of money and drugs at that residence. There was

1 testimony from Mr. Cox saying that he had gone to that residence
2 with Mr. Taeyan Williams for the purpose of resupplying their --
3 all of the trial evidence, Your Honor, points to the fact that
4 this was a drug residence.

5 THE COURT: Okay. Anyone -- Mr. Hawks on that or any
6 other enhancement that is still on the table?

7 MR. HAWKS: Thank you, Your Honor. Your Honor, with
8 regard to that, Mr. Cox, for the first time -- pardon me -- for
9 the first time in the trial said that he had entered the home.

10 In his grand jury testimony, he said he never entered
11 the home. Every other witness said they hadn't entered the
12 home, they walked up. Obviously, there was a massive --
13 you know, connected to the facts of this case, there was a
14 massive amount of drugs on June 6th. I think it's clear to
15 everyone that that was certainly not indicative of the way that
16 the home was maintained. There was this event, and as
17 Your Honor just said it, he took advantage of that, he stored
18 drugs there. That --

19 THE COURT: But they were with there for two months,
20 correct, at least, under this theory, if they got them in April
21 and still -- a lot of it is still there in June?

22 MR. HAWKS: It was. I think that also, Your Honor,
23 says a lot about the level of drug dealer that Mr. Williams was,
24 or wasn't, more to the point, and so --

25 THE COURT: Meaning that it wasn't sold that quickly.

1 MR. HAWKS: Exactly.

2 THE COURT: Okay, well ...

3 MR. HAWKS: And there was testimony is from Ms.
4 Chaplin that he from time to time sold drugs from an orange
5 bucket, an orange Home Depot bucket in the bedroom, and so
6 that's his normal amount, and this was -- he was really --
7 Your Honor, I use the term, "a bailee," and so, you know,
8 obviously -- Your Honor will take notice of the amount of drugs,
9 but that was just very far out of the character of the way
10 Mr. Williams normally conducted that home.

11 THE COURT: Okay. So --

12 MS. GROSSI: Yes, Your Honor. I was just going to add
13 that Ms. Chaplin also said that she knew he was in the business
14 of drug-selling and that she knew that -- where some of the
15 marijuana was. With regard to the amount of drugs that were in
16 the residence, that also included the methamphetamines. That
17 was not part of the robbery related to Mr. Smothers, and the
18 standard really is with regard to whether the defendant
19 maintained a premises, not whether someone had to go in and out
20 of that premises for the purpose of distributing a controlled
21 substance.

22 The government also submits that there's the
23 enhancement for the firearms that were possessed as well, which
24 I believe they're also objecting to. There were firearms next
25 to the methamphetamines and cocaine in that shelf up there, and

1 there is Fourth Circuit testimony saying that the proximity of
2 guns to drugs is indicative of using them in drug trafficking.
3 There were also firearms found in the closet, where there was
4 also drugs as well, and the government submits that that
5 two-level enhancement should also be applied.

6 THE COURT: Okay, last word on enhancements generally.

7 MR. HAWKS: Thank you, Your Honor, and Your Honor,
8 I'll try to be brief. The premises was maintained as a -- it
9 was a home, for two children, an adult who had no connection to
10 this, was aware of it but had no connection to it. That's what
11 this place was. Someone showed up with a lot of drugs. Some of
12 those drugs were stored in the shed, some of those drugs were
13 stored in a crawl space, in the basement, a few of those drugs
14 were stored upstairs, in the basement, but that was a family
15 home that had this imposition into it.

16 And with regard to the firearms, I believe the
17 government's position is, if there are drugs somewhere and
18 there's a handgun somewhere, then they're connected. The only
19 thing I can offer Your Honor is, that's not the law; the law is
20 that there's supposed to be some showing that they work. And I
21 understand the Fourth Circuit said, one of the things that a
22 fact-finder can look at is, are they stored in proximity
23 together? Sure. That's not the only thing they can look at;
24 they can look at the dearth of evidence that there was ever any
25 connection between the two.

1 Again, this issue was squarely presented to the jury,
2 and they rejected it. And Your Honor, I understand that's not
3 controlling, but it -- the law really isn't that if there's guns
4 and there's drugs, then there's a, you know, 924(c) or two-level
5 enhancement. That's not the law. The gun has to support the
6 drug trade, and honest to goodness, in this case, there's no
7 evidence of that.

8 Thank you, Your Honor.

9 THE COURT: Okay, thank you.

10 So here's what I'll do with the rest of the
11 enhancements. I will apply the two-level enhancement under
12 2D1.1(b) (1) because firearms were possessed. Now, as has been
13 pointed out, there were acquittals on the charges under 18
14 U.S.C., 924(c), and even though it's a different standard of
15 proof, as I said, I need to think carefully about the arguments
16 that may have been persuasive to the jury and see whether they
17 apply under this standard of proof.

18 I do find, though, that at least one firearm was
19 possessed, because the standard for applying that enhancement,
20 under 2D1.1(b) (1), Application Note 11, is that the enhancement
21 applies if the firearm is "present, unless it is clearly
22 improbable that the weapon was connected with the offense,"
23 which I read that as lower standard than possession in
24 furtherance of a drug trafficking crime, which is what was
25 required 18 U.S.C., 924(c).

1 So finding the enhancement is not inconsistent with
2 the jury verdict, even under the same standard of proof. In
3 particular, I find that the SIG Sauer that was found in the
4 closet area outside the drug stash in the crawl space meets that
5 standard of being present and not clearly improbable that it was
6 connected with the offense.

7 There were discussions I believe in the recordings
8 about the crawl space. It was clearly a place that
9 Scott Williams did not want investigators to be searching or was
10 concerned when he found out they found that area. The fact that
11 the firearm was in that vicinity, at the entrance to that area
12 supports an inference that it's connected in some ways as a way
13 to protect that stash. So I find at least with that firearm,
14 there's enough for this enhancement to apply.

15 I am also going to apply the two-level increase under
16 2D1.1(b) (12) for maintaining a premises for distributing a
17 controlled substance, which is the Bristolwood Court residence.
18 The defense is correct that there's nothing automatic about
19 this. The fact that it is also another residence may count in
20 his favor. The fact -- that was used for other purposes. The
21 law doesn't require it to be a fully separate freestanding
22 location only for drug use; it could be where the person lives,
23 it could also be where other things are occurring.

24 To me, what I find most compelling, but it's certainly
25 not required, is this crawl space area, which clearly was being

1 used primarily to hold the drugs -- and we can infer they were
2 there for two months, at least, from the time in April until the
3 search in June. There was also a storage shed, which was used
4 for that purpose as well. So it wasn't just drugs showing up
5 there one day for a couple of hours; this was -- and we also
6 heard multiple people who visited the location, even if they
7 didn't go inside, which inferred that there were drugs stored
8 there, so I do find that that enhancement applies.

9 And I do find the two-level increase under 3C1.1 for
10 obstruction of justice, which is the charge of conviction in
11 Count Nine. That's not really opposed. I'm not going apply the
12 enhancement for using violence or directing the use of violence,
13 for the same reasons I'm not applying the murder enhancement, in
14 terms of exactly whether that was established as opposed to some
15 other means by which the death resulted through other people.

16 So I find, when you add up all those enhancements, the
17 final adjusted offense level is 36, the criminal offense
18 category -- criminal history category of I, the guideline range
19 is 188 to 235 months. There is a ten-year mandatory minimum on
20 Count Seven. The guideline range for supervised release is at
21 least three years on Counts One and Six, at least five years on
22 Count Seven, and one to three years on Count Nine. The
23 guideline range for a fine is \$40,000 to \$10 million. The
24 special assessment is \$400.

25 Anything else to say about the guidelines?

1 MS. GROSSI: Not from the government, Your Honor.

2 MR. HAWKS: No, Your Honor, thank you.

3 THE COURT: Okay. So now, I would like to move to
4 statements by witnesses or individuals other than counsel. I
5 usually like to hear from any witnesses first, and then we go to
6 counsel, first the government, then the defense, and then
7 Mr. Williams, if he would like to speak. So to begin with,
8 should we bring forth the individuals that the government would
9 like to offer?

10 MS. GROSSI: Yes, Your Honor. Ms. Kerrie Doyle will
11 be speaking, Your Honor, Mr. Noah Smothers' mother.

12 THE COURT: Good morning, ma'am, thank you. Just
13 state your name for the record and let me know what you'd like
14 to say.

15 MS. DOYLE: My name is Kerrie Doyle. I'm
16 Noah Smothers' mother. This is why we're here (indicating).
17 This is my son. He murdered him. You know it, you know it, we
18 all know what happened. And I understand, you have to go by
19 whatever guidelines you go by, but it's pretty basic to me.

20 My son was a good person. He got involved in
21 something that he shouldn't have. They robbed him -- they could
22 have just robbed him; that's all they had to do, was rob him,
23 take the money, take the drugs, and go on their way. But there
24 was an agenda for more of that -- than that, and they proceeded
25 to torture him, murder him, and dismember him, which shows me

1 what kind of individual this person is.

2 And I'm sorry for whatever his poor childhood,
3 environment, genetic combination -- whatever made you this is
4 pathetic, but you had free will, and you could have just taken
5 the drugs and run. You could have. But that's not who you are,
6 because you're incapable of that. You show no remorse, none.
7 You have shown no culpability, and you both know it, but you
8 have to defend him; I get it.

9 THE COURT: Ms. -- Ms. Doyle --

10 MS. DOYLE: I'm sorry, I'm sorry.

11 THE COURT: -- you're supposed to speak to me, not
12 anyone else.

13 MS. DOYLE: I'm sorry, I'm sorry, I didn't know the
14 rules.

15 THE COURT: Go ahead.

16 MS. DOYLE: I'm sorry.

17 THE COURT: Go ahead.

18 MS. DOYLE: I'm serving a life sentence. My life will
19 never be remotely the same again. I live with this every day.
20 Every morning when I wake up, Noah is the first thing that
21 I think of and every night when I go to bed.

22 I can't bring him home, he can't have a proper burial,
23 because God knows what they've done with his body. Because
24 again, they won't tell us, because they're protecting
25 themselves.

1 I'm just begging you to do the maximum that you can
2 do. I'm going to be tortured by this for the rest of my life,
3 and my son's life was taken. And they didn't have to do it in
4 the manner that they did; they could have taken the pot, and
5 they could have gone, and they could have sold it, but that's
6 not what they did. It's pretty simple to me. This is why we're
7 here. This boy was brutally murdered, and he doesn't have a
8 voice now, or a life. They will.

9 And I thank you for your time.

10 THE COURT: Thank you very much, Ms. Doyle.

11 MS. GROSSI: Your Honor, that is it from the
12 government. Mr. Roger Smothers does not wish to speak at this
13 time; he wants to submit on his victim impact statement.

14 THE COURT: Okay, and I have read all of those very
15 carefully.

16 Mr. Hawks, anyone you want to bring forward?

17 MR. HAWKS: No, Your Honor.

18 THE COURT: Okay. So we'll hear, then, from the
19 government, then we'll hear from the defense, and then if he
20 would like to, we'll hear from Mr. Williams.

21 Ms. Grossi.

22 MS. GROSSI: Thank you, Your Honor. The government
23 recommends that this Court sentence the defendant to a life in
24 prison. The government believes this recommended sentence is
25 sufficient but not greater than necessary to comply with the

1 purposes of sentencing as outlined in 18 U.S.C., 3553(a).

2 As this Court saw at trial, the nature and
3 circumstances of the instant events are incredibly serious,
4 disturbing, and cause a lot of distraught to Noah Smothers'
5 family. The defendant and Taeyan Williams owed Mr. Smothers
6 money in their marijuana trafficking business. They didn't want
7 to pay him back, so they kidnapped, robbed, tortured, killed,
8 and buried Mr. Smothers, and despite diligent efforts, law
9 enforcement has still not been able locate Mr. Smothers'
10 remains, five years after he was murdered.

11 At trial, witnesses testified about how much of
12 Mr. Smothers' blood was found on the outside and inside of his
13 rental car. There was blood found on the rear bumper gate, the
14 back lift gate, rear doorframe, and in the trunk. There was so
15 much blood that you could see it with your naked eye, through
16 the carpet in the back of the seat. It appeared on the metal.
17 And once law enforcement applied luminol, which fluoresces when
18 it comes in contact with blood, you could see the outline of a
19 body in the back of the car.

20 Trial testimony established that the firearm with --
21 that was used in Mr. Smothers' kidnapping and torture had
22 Mr. Smothers' DNA and blood on it, and it was found in the shelf
23 in the basement closet of the defendant's home, not far from
24 Taeyan Williams' room in the basement.

25 The government filed statements from the parents and

1 brother of the victim, you just heard from the mother, but each
2 of those letters is heartbreaking to read. They discuss the
3 person they love, and lost, and the immense impact that loss had
4 on them and their family. And they have real concerns for when
5 this defendant is released.

6 Those letters speak for themselves, but I believe it's
7 also a window into the defendant's history and characteristics
8 as well. The defendant's history and characteristics are
9 concerning. He has four unscored prior criminal convictions and
10 a long list of contacts with the criminal justice system. The
11 defendant was charged with assault, second degree, three times,
12 in 1998, 2006, and 2009. The defendant also has --

13 THE COURT: Hold on one second; let me just look at
14 this, because ... I mean, he was -- criminal history category I,
15 and let me just see what you're referring to.

16 (Pause.)

17 THE COURT: So he's got four convictions for
18 motor vehicle driving offenses, or licenses offenses. Where are
19 you referring to here, under Other Alleged Conduct?

20 MS. GROSSI: Your Honor, I am referring to the charges
21 that he faced that were assault, second degree, that he faced in
22 1998, 2006, and 2009, for which he was not convicted.

23 THE COURT: In district court, state district court.

24 MS. GROSSI: Correct, correct, Your Honor.

25 THE COURT: Okay, I see it now.

1 MS. GROSSI: The defendant also has a long list of
2 motor vehicle offenses. He's had his license suspended six
3 times for child support enforcement. And a ubiquitous concern
4 throughout this trial, throughout this prosecution, and even in
5 the instant offense is the defendant's attempt to obstruct
6 justice and destroy evidence, including Mr. Smothers' body.

7 He lied to the Court and Probation. At the
8 defendant's arraignment hearing in this case on January 24th,
9 2019, the defendant told Magistrate Judge Timothy Sullivan on
10 two separate occasions that he was born in the United States and
11 that he was a United States citizen, but in actuality, the
12 defendant was born in Jamaica and came to the United States when
13 he was 15.

14 Likewise, during his interview with U.S. Probation,
15 the defendant again lied and told U.S. Probation that he's a
16 naturalized U.S. citizen, but in actuality, the defendant's
17 application for citizenship was denied in 2015.

18 You saw, Your Honor, the way in which the defendant
19 tried to intimidate Ms. Chaplin when she came in here, and
20 additionally, the defendant has multiple disciplinary
21 infractions since his time in this case serving time at the
22 Chesapeake Detention Facility. We just have records through
23 October of 2022, so almost a year ago, and in those records, it
24 shows at least 11 separate disciplinary infractions while he was
25 housed at the Chesapeake Detention Facility.

1 Your Honor, the government submits that a long prison
2 sentence is appropriate in this case in order to protect respect
3 for the law, provide adequate deterrence of criminal conduct,
4 and protect the public from future crimes of the defendant. The
5 government also asks the Court to incorporate the motion for
6 forfeiture and impose a 10-year supervised release sentence
7 as well, if the Court were to not give a life sentence.

8 And for those reasons and the reasons in the
9 memorandum, the government respectfully recommends that the
10 Court sentence him to life in prison.

11 THE COURT: Okay, one -- a couple of questions before
12 you leave. I understand the argument; I just want to get your
13 reaction or your thoughts on one of the questions that's
14 troubling me a little bit, which is, particularly given the
15 findings I have made on the enhancements, which I understand you
16 may disagree with, you're basically asking for an upward
17 variance, right, to life imprisonment, and I have already told
18 you, I think under 18 U.S.C., 3553(a), there is a basis for
19 factoring in some of the circumstances here, which are highly
20 unusual, highly egregious, and so therefore, I don't think
21 asking for an upward variance is at all inappropriate under
22 these circumstances.

23 But in terms of proposing the upward variance all the
24 way to life imprisonment, aren't you basically asking me to
25 ignore the jury verdict and just sentence someone for a murder

1 which he hasn't been convicted of? I mean, how do I square
2 that, particularly given the findings I've made on the
3 enhancements?

4 You're really asking for an upward variance, where I
5 just find that -- I mean, what other crimes do we give that for?
6 And your argument is about the killing; it's not at all about
7 the drug dealing. So how do you reconcile that for me?

8 MS. GROSSI: Your Honor, I believe you spoke about the
9 fact that you believe Noah Smothers' murder was in connection
10 with the drug conspiracy that the defendant was involved in.
11 The defendant had knowledge of Mr. Smothers' murder, he was
12 involved, I believe might be your words, in some way in Mr.
13 Smothers' death; however, you don't find that there was first
14 degree or second degree murder.

15 The government submits that there was ample evidence
16 to show that the defendant covered up this crime. On the jail
17 calls, there was very frank conversations about the fact that he
18 should have destroyed of all the evidence, that he shouldn't
19 have kept his -- Mr. Taeyan Williams shouldn't have kept his
20 cell phone, and that they are trying to cover up a murder that
21 we -- the government, the United States, and Noah Smothers'
22 family has an interest in prosecuting, and through the
23 defendant's actions, we are unable to find Mr. Smothers' body,
24 evidence of that murder.

25 And the government believes that a variant sentence is

1 appropriate in this case for all of those reasons, as well as
2 the convictions for conspiracy to destroy evidence, as well as
3 the methamphetamines and the conspiracy for the --

4 THE COURT: No, I understand the evidence, I saw the
5 evidence. I mean, I'm not even saying I don't disagree with
6 your version or -- at all, but I'm just saying that -- help me
7 reconcile, for me and perhaps more importantly for the public.
8 If they see the result, here, how do we explain -- again, when
9 it's really just based on a variance, where it's really the
10 judge's discretion to some degree, how do we explain a sentence
11 that basically is a sentence for a murder conviction, when the
12 jury acquitted? And how does anyone look at that and fully
13 understand how that comes about?

14 Because it seems as if you could have presented all
15 this evidence without a jury to me, asked for a finding by a
16 preponderance of the evidence, and gotten the same result, but
17 yet, we went through this whole trial exercise. What was the
18 point of the trial, then, if you're asking for the exact same
19 sentence based on the discretion of the judge?

20 MS. GROSSI: Yes, Your Honor. I believe the
21 U.S. Supreme Court talked a little bit about this, in acquitted
22 conduct in the most recent decision in the McClinton v.
23 United States case, where they denied certiorari on the
24 challenge of the use of acquitted conduct at sentencing. They
25 go into a little bit of the history of using that and the

1 reasons for that, and so I believe that there is some
2 disagreement between the justices on whether -- you know,
3 whether it is an appropriate standard and whether they're going
4 to take it up after the Sentencing Commission is looking at it.

5 But there are some reasons for that, Your Honor.
6 There is a lower standard of proof with regard to showing
7 relevant conduct at sentencing, and there is some times when,
8 you know, the government believes the jury got it wrong. And so
9 we are coming to talk to you about the relevant conduct here
10 that we believe we proved at trial and the reasons under 3553(a)
11 that you should issue a variant sentence.

12 THE COURT: No, I understand that, and I agree with
13 you on the law entirely. I guess I'm just trying to understand,
14 how do you explain it to a layperson, a citizen who understands
15 that there is a Constitution, there's a right to a trial,
16 there's a -- you know, conviction is by a jury of your peers,
17 not by a judge sitting there, just making decision. How do you
18 explain it to them in ways that they would understand it?

19 MS. GROSSI: Your Honor, I believe that that is the
20 law of the land, that's the Supreme Court law of the land, and
21 there is reasons for that. I think that some of them go into
22 the history of the right by jury that was instituted by --
23 you know, at the beginning of this country, and there is some
24 precedent to show that that conduct and all of the relevant
25 conduct regarding the defendant, the instant offense, his

1 history and characteristics, all of that should be considered by
2 the Court when making a decision on a sentence.

3 THE COURT: Okay, anything else?

4 MS. GROSSI: No. Thank you, Your Honor.

5 THE COURT: Thank you.

6 Mr. Hawks.

7 MR. MR. HAWKS: Thank you, Your Honor.

8 Your Honor, the nature and circumstances of the
9 offense that bring us here is drug trafficking, and I'm very
10 mindful of the enhancements that you found, but in the end,
11 those are enhancements to a drug trafficking crime.

12 And so when you look at this drug trafficking crime, I
13 don't think there's really any dispute here that -- the numbers
14 that we're talking about, this is a one-off. This is not the
15 normal quantity or conduct of Mr. Scott Williams. This is --
16 Mr. Scott Williams did, from time to time, as the evidence is
17 clear, engage in drug trafficking. He had a bucket with a
18 little bit of marijuana and some pills in it, and then all of a
19 sudden, that number went up.

20 And Your Honor, for that reason, I would ask you to
21 look to the lower end of the guidelines, actually, a downward
22 variant sentence of the guidelines that you have discussed, and
23 somewhere between that mandatory minimum and the lower end of
24 the guidelines are the 188 months that you found.

25 THE COURT: What am I supposed to do with -- I know

1 you disagree with this, but if I made it -- I did make a
2 finding -- I didn't make a finding necessarily about specific
3 involvement by anybody, but I did make a finding that a death
4 resulted from this drug conspiracy.

5 And as I noted earlier, there is a very severe
6 enhancement for a death resulting from a drug conspiracy when
7 it's an overdose or something like that. And so the law
8 understands that when something like that happens, it's not an
9 ordinary case anymore, and even though there isn't a guideline
10 enhancement for that, there's at least something to -- that's
11 something that can and should be considered, I believe.

12 And here we have a death which frankly is probably
13 more significant in terms of the unusual nature of it and the
14 serious nature of it than an overdose, which by most accounts,
15 those are not intended by anybody, and yet, we're very cognizant
16 of that -- when that happens in a case, we are looking at a
17 completely different situation, even if it's still drug
18 trafficking.

19 So if I just treated that the same as an overdose
20 death, you'd be looking at a very, very severe sentence, so why
21 should this be different than that?

22 MR. HAWKS: Your Honor, I think, to fully answer that
23 question, you have to step back and look at the axioms that
24 animate American law, and one of those is the idea that the
25 sentence that you impose should be sufficient but not greater

1 than necessary.

2 And so you have concluded that he was a part of a drug
3 conspiracy that among its ill effects, one of the ill effects is
4 that a person died, perhaps violently, perhaps murdered, and
5 even perhaps murdered by one of his associates -- and
6 Your Honor, we are grateful for your judicial humility in that
7 you acknowledge openly that you do not know the role that he
8 played.

9 And American law would say with that we understand
10 that a person can be next to awful conduct and not bear legal
11 responsibility for that conduct. And then the sentencing
12 guidelines go further. The sentencing guidelines have,
13 for example, in drug trafficking, a description where they talk
14 about circumstances where a drug trafficker can understand the
15 foreseeable effects; I'm getting drugs from a cartel that
16 imports millions of pounds of drugs and commits murders all over
17 the planet, and yet, I know that by doing business with that
18 cartel, in some metaphysical way, I support that, but I'm not
19 legally accountable for that.

20 And in the same way -- and I understand it's less
21 attenuated than with a cartel, but in the same way, Mr. Williams
22 can participate in a drug conspiracy or, in your words, take
23 advantage of the fruits of that drug conspiracy without bearing
24 in this case sentencing liability for the ill effects of that
25 conspiracy.

1 And so Your Honor, I think you have to go back to the
2 foundation of this country, that -- where there was a Seventh
3 Amendment. It's not, you know, a law that got passed in 1941;
4 it's the seventh most important guarantee of rights that the
5 people who set up this country had and said, you have a right to
6 a jury that gets to decide, not officials.

7 One of the principal architects of this country,
8 Thomas Jefferson, said he would rather ten guilty people go free
9 rather than one innocent be wrongfully be punished, and it's
10 that idea that because we don't know -- we can make inferences,
11 we can make guesses, we can speculate, but we don't know what he
12 did. And so we can't average the punishment, we can't take a
13 kind of statistical likelihood of the punishment; we have to
14 restrict your punitive capacity to what we know he did in this
15 case.

16 The only thing we know he did was help cover up after
17 the fact, which is accounted for in the obstruction enhancement
18 that you've already applied. So he's getting more than
19 everything, not -- the defense would argue he's getting more
20 than everything, not less than everything that's coming to him.

21 THE COURT: But wouldn't you agree that the
22 obstruction enhancement applies -- possibly; I'm not going to
23 say entirely; I think there's a -- in the guidelines, there's a
24 reference to, you know, trying to throw drugs away or flush them
25 at the moment that law enforcement comes, and it may not be

1 enough, but we also have this issue with the phone, wiping the
2 phone, which would certainly be enough for the two levels.

3 And so the law says that something like that is enough
4 for the two levels. What we're talking about is a whole 'nother
5 level of obstruction, if we're talking about covering up some
6 kind of killing or something like that. I mean, isn't that a
7 different animal?

8 MR. HAWKS: Your Honor, the sentencing guidelines are
9 exceptionally robust. Someone has thought about that issue,
10 that my goodness, couldn't it include not just throwing away a
11 joint when the policeman's coming or even erasing a phone a year
12 after the fact, when it really didn't have any data on it; it
13 could include helping someone out for a very serious crime.

14 And they said, that's where plus 2; they didn't say --
15 I mean there's -- you know, there are role enhancements that are
16 gradated, plus 1, plus 2, plus 3, plus 4. They didn't do that;
17 they said, plus 2, and they gave you a guidelines range, and
18 then they gave you the ability to go below that range, they did
19 give you the ability to go above it.

20 I would argue, Your Honor, all of the things that
21 trouble you about Mr. Williams' involvement in this case are
22 captured in the number of enhancements, in the -- in this case,
23 you have acknowledged, he may have stored a gun used by someone
24 else that he never handled. He's getting two levels. He's
25 getting -- at this scale of the guidelines, he's getting years

1 of additional punitive exposure for what could have been a
2 moment's -- you know, put the box over there, he forgot about
3 it, the police come through the door, and he's like, oh, my
4 goodness, the box.

5 For that -- you know, that instant, put it over there,
6 near the crawl space, for that instant, he's getting years of
7 punitive exposure. And so I'm not sure that the people who set
8 up the guidelines would have thought that's always appropriate.
9 They were thinking, the plus 2 levels for firearms is some guy
10 walking around the streets of New York City or Washington, D.C.
11 with the ability to shoot any person who they perceive a threat
12 from. That's why they get two levels, not, you have a box in
13 a -- you know over a crawl space that you don't touch for two
14 months.

15 And so none of these things are exactly precise, but
16 Your Honor, they capture all of the concern that you would have
17 about the conduct that he engaged in.

18 THE COURT: Okay. Anything else you want to offer?

19 MR. HAWKS: Yes, Your Honor. Your Honor, I think it's
20 important to note, there's clear evidence, he's one of many. I
21 know we have another defendant tomorrow, but there's clearly --
22 in their sentencing memo, they have this recorded colloquy
23 between Taeyan Williams and Scott Williams, and he says, You
24 need to -- Taeyan Williams says to Scott Williams, you need to
25 take accountability, and then he says, In fact, you all need to

1 take accountability. And he -- later on, he says there are
2 people fighting among themselves. Clearly, there are more
3 people involved with this.

4 In their sentencing memo, there's four pages of that
5 drug -- we're calling it a drug inventory that was found. Two
6 of those pages, two pages out of four, the drugs are attributed
7 to the team. Clearly, there's more people here in this drug
8 conspiracy than Scott Williams and Taeyan Williams.

9 And again, in a drug conspiracy, you know, many hands
10 make light work, but only two people are on the hook for it.
11 And so Your Honor, I think there's a tendency in this country to
12 look for a lottery justice. We know people get away with
13 things, so when we catch one, uh-oh, we throw it on them.
14 Your Honor, I would offer to you, that's not justice. The fact
15 that we know that there's other people who had something to do
16 with these drugs who aren't here isn't a reason to say, well,
17 then, we'll with give a little bit of their sentence to
18 Scott Williams.

19 And so Your Honor, for that reason, I would say, in
20 that range that you talked about, you should be looking to the
21 lower end of that range.

22 Your Honor, we talked about the obstruction. I would
23 just briefly say, for the charged obstruction, this thing with
24 the phone, remember, he's arrested in 2018, he's released, he's
25 rearrested in 2019. He gives the card to a lawyer, the lawyer

1 gives it to -- that phone that got erased was a year after
2 anything happened, it didn't affect it. And I understand we're
3 punishing mens rea and not necessarily the actus reus, but the
4 actus reus really had no impact on the case.

5 Your Honor, the history and characteristics of the
6 defendant -- it's not my place to critique the prosecutor, but
7 my goodness, could some perspective be valuable, to -- to take a
8 step back and say, you're asking that a person be sentenced for
9 the remainder of their natural life, and your reasons for that,
10 unconvicted misconduct of a decade or two decades ago. That's
11 what they're relying on. You were confused because you said
12 charges, and -- it's charges; he was never convicted of any of
13 that.

14 They have given you a rendition of -- again, they're
15 saying, this is a basis to put a person away forever, for the
16 remainder of their natural life, and their basis is, he used the
17 "B" word in slowly complying with the orders of guards at CDF.
18 You know, You need to go back to your cell. Screw you, I'm
19 going to wait. Clearly, he went back his cell. Clearly, he
20 hung up the phone. But that's the basis by which they're trying
21 to offer this ridiculously significant sentence?

22 Your Honor, the people who know him best have written
23 letters to the Court. Miss Earle: This is maybe the only
24 honest car mechanic. She repeatedly talked about how he was
25 there to help her fix her car. That's character. I mean,

1 that's a profession where people routinely -- I mean, they
2 essentially said, oh, he's very dishonest. If you want to be
3 dishonest, be a car mechanic. He is an honest car mechanic.

4 They talked about instances where he had problems with
5 his child support payments. The letter from his daughter lays
6 out clearly what kind of father this is. The lapses in child
7 support payments, they're statements about his finances, they're
8 not statements about his commitment to being a father.

9 The statement about his commitment to being a father
10 is written by Ms. Hoilett and Ms. Whittier. Your Honor,
11 Ms. Hoilett -- I hope you can keep perspective of who she is.
12 She's Taeyan's mother. She couldn't be happy about where her
13 son is. She has every reason to offer no help to
14 Mr. Scott Williams, and yet, she acknowledged, this is a
15 stand-up dad. When she got pregnant as a teenager and he was a
16 teenager, he didn't run; he showed up, and he stayed, and he's a
17 committed father.

18 That's his character, that's who he is, and there are
19 elements of that throughout the trial, where he didn't know
20 anything when he's in the back of the car with Sergeant Simms,
21 until Sergeant Simms says, Hey, listen, it's you on the hook or
22 it's Ms. Chaplin. He says, Put everything on me, put everything
23 on me. When he gets on the phone with Ms. Chaplin right after
24 he's arrested, he says -- Ms. Chaplin says -- he apologizes to
25 her, I'm sorry I put you through this. He says, Don't worry

1 about me. She says, Don't worry about me? She says, These kids
2 are cracking up; these kids needs you. That's a committed
3 father.

4 And so Your Honor, there can be no denying his
5 proximity to this profoundly troubling event, but this person
6 got handed a bad deck of cards and certainly didn't do what the
7 law presumes of him. But it was written, The sins of the
8 cold-hearted and the warm-hearted are weighed on two different
9 scales. This is a warm-hearted person. He's not cruel, he's
10 not a monster, he doesn't have a genetic problem; he is a person
11 who is trying as best he can to navigate difficult moral
12 choices.

13 And he's not facing a trivial sentence. 15 years in
14 jail is a long, long, long, long, long time, Your Honor, and you
15 consider his role in the nature and characteristics of the
16 offense if you consider his actual demonstrated character by the
17 people who know him.

18 Your Honor, we hope you see that a sentence on the
19 lower end of that guidelines range is an appropriate one.

20 Thank you, Your Honor.

21 THE COURT: Thank you.

22 So Mr. Williams, you have the opportunity, if you
23 would like to, to make a statement before the sentence is
24 issued. If you would like to, now is your opportunity.

25 THE DEFENDANT: Yes, Your Honor. Your Honor, I would

1 like to present this motion to the Court to take a judicial
2 notice of a fraud concerning the drug quantity amongst,
3 Your Honor ...

4 THE COURT: Well, since you have an attorney, I'm
5 going to let Mr. Hawks present whatever needs to be presented or
6 should be presented.

7 MR. HAWKS: I'm sorry. Judge Chuang --

8 THE COURT: So is there a motion you want to present,
9 Mr. Hawks, on behalf of your client?

10 MR. HAWKS: I think -- no, Your Honor.

11 MR. CRAWLEY: May we have a moment?

12 MR. HAWKS: Sure.

13 (Conference between Mr. Crawley and Mr. Hawks.)

14 MR. HAWKS: Your Honor, there is a disagreement
15 between counsel and the client regarding the best avenue to
16 pursue what he believes is a discrepancy of evidence regarding
17 the drug weight at trial. Counsel for the defendant have
18 reviewed his materials, and it's our decision not to present it
19 to the Court at this time. However, we would make clear for the
20 record that he has concerns about the calculation of the drug
21 weight that at some point he wishes to pursue through judicial
22 action.

23 THE COURT: Is there anything you want to put on the
24 record in the event that there is some judicial action in the
25 future?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: We'll come back to Mr. Williams; I'm just
3 asking Mr. Hawks.

4 MR. HAWKS: Yes, Your Honor. Essentially, the concern
5 is that the weight of the methamphetamine pills he believes
6 are -- there are two bags of pills. One has one weight, one has
7 another average weight, and he believes that that's
8 inconsistent, because the pills were fundamentally the same, so
9 they should weigh the same, so that is evidence of a broader
10 quality control issue at the laboratory.

11 THE COURT: Okay, thank you. And just on that point,
12 again, just for the record, I mean, I did include that in the
13 drug quantity calculation. It was something that the jury
14 actually made a finding on of at least 500 grams. The exact
15 number I gave was, I believe, from the testimony or from what
16 the government presented, but even at least that 500-plus was
17 established and found by the jury, and I have no reason to doubt
18 that. So anyway -- but Mr. Williams, go ahead.

19 THE DEFENDANT: Yes, Your Honor. On August 6th, when
20 Mrs. Amber Burns reported that the net worth of three pills is
21 weighing .978 grams and that three other pills and the bag
22 weight is .57- -- .573 grams. And then, on a supplemental sheet
23 for -- there's no way that three pills are going to weigh
24 199 grams, Your Honor; that would be more than the size of a
25 golf ball.

1 And then -- and the supplement -- and the same thing,
2 I noticed that from my supplement, and the same that is
3 superseding me on December 18, 2018, we report- -- the false
4 weight of three tablet in -- I mean, in each bag, the net worth
5 carrying one bag of 199 grams, Your Honor, and the net worth of
6 three other pills from the other bag is carrying three- --
7 347.84 grams, Your Honor.

8 And the total net worth of the pill is five hundred
9 and -- five- -- 546.93 grams, which I was superseded on the same
10 day for that 500 grams, Your Honor. And more important is,
11 there are -- I mean, the original in the indictment was 300
12 pills. And this is caused by -- resulted in my solitary
13 mandatory minimum sentence of five years for 300 grams, and
14 increase it to ten years when mandatory for 500 grams,
15 Your Honor.

16 THE COURT: Okay.

17 THE DEFENDANT: I do have everything presented right
18 here for you, just need to break it down. Mr. Carty sings when
19 I hoped and swearing that the pills was 200 at one time, and
20 then, after that, Mr. Greg Saxton, and then -- and then
21 everybody, Your Honor.

22 THE COURT: Okay. Is there anything else you'd like
23 to say before the sentencing?

24 THE DEFENDANT: And then -- yes, Your Honor. I'd like
25 to apologize to my family, and to my kids, and to my mom.

1 And -- from when -- since I've been incarcerated, I've been
2 having a lot of complication, a lot of stuff, Your Honor, and I
3 do want to say that I apologize to the Court too, Your Honor.

4 Thank you.

5 THE COURT: Thank you.

6 THE DEFENDANT: Then I'm asking you, if you could, in
7 your deep -- deepness of your heart, Your Honor, if you could at
8 least give me the lower end of my sentencing guideline,
9 because -- I'm just asking you to give me the lower end of the
10 sentencing guideline so I could be there for my kids, Your
11 Honor, more than me going away for my life. That's all I live
12 and breathe for, is my kids, Your Honor, that's all I do, with
13 my kids.

14 THE COURT: Thank you.

15 THE DEFENDANT: Thank you, Your Honor.

16 THE COURT: Mr. Hawks, I'm not going to question or
17 even disagree with your decision not to present the motion, but
18 it may be helpful, I think, just to have whatever papers
19 Mr. Williams wanted to present made -- preserved for the record
20 in case of any future discussions on this topic. So I don't
21 know the best way to do that, but I don't think they need to be
22 filed as a motion, because you're not filing one, but just for
23 identification, if there's a way that that can be part of the
24 sentencing hearing as something that was ...

25 MR. HAWKS: Thank you, Your Honor.

1 THE COURT: Something to that effect, if you can do
2 that. Thank you. Or you can provide it to the Clerk after the
3 hearing, just for the record, perhaps as an exhibit.

4 (Conference between Mr. Hawks and Ms. Grossi.)

5 MR. HAWKS: (Handing.)

6 (Conference between Mr. Crawley and Mr. Hawks.)

7 THE COURT: Are we ready?

8 MR. HAWKS: Yes, Your Honor, thank you.

9 THE COURT: Okay, thank you.

10 (Conference at the Bench.)

11 It is the policy of this Court that every guilty plea and
12 sentencing proceeding include a bench conference concerning
13 whether the defendant is or is not cooperating.

14 (Open court.)

15 THE COURT: In considering the appropriate sentence
16 for Mr. Williams, I have considered the advisory guideline
17 range, which is 188 to 235 months. I have also considered all
18 of the factors in 18 U.S.C., 3553(a) and Congress' direction
19 that the sentence imposed be sufficient but not greater than
20 necessary to meet the purposes of sentencing. And I will
21 discuss some but not all of those factors in detail.

22 As for the nature and circumstances of the offense,
23 this was a drug distribution crime, involving methamphetamine,
24 cocaine, and marijuana. It's a very serious form of this
25 offense. Methamphetamine and cocaine are serious drugs that

1 have a serious impact on our community.

2 Marijuana is now viewed by some as less serious, but
3 if there is any case that shows that marijuana dealing is still
4 a very serious crime, it is this one. Not only did this crime
5 involve large interstate shipments and repeated drug dealing,
6 but one of the members of the conspiracy ended up losing his
7 life. Now, whether or not there was a conviction for that
8 killing or whether it technically qualifies for enhancement,
9 that is a serious aggravating factor.

10 And while Mr. Williams may not have been convicted of
11 the killing, or of the kidnapping, or a robbery, there's no
12 serious dispute that he ended up with Mr. Smothers' stash of
13 drugs after his death, which is not only highly troubling but
14 morally reprehensible, that anyone would be so opportunistic as
15 to profit from someone's disappearance or death in this way.

16 And also in this instance, Mr. Williams, at a minimum,
17 I have found, participated in covering up this event by allowing
18 his car or frankly most likely using his own -- using his car
19 himself to help dispose of Mr. Smothers' car. And that's just
20 at a minimum; there may have been other conduct that he was
21 engaged in, in the cover-up, that was even more extreme.

22 So overall, this is an extremely serious form of the
23 offenses of conviction.

24 Now, even for those not accused of participating
25 directly in his death, I consider the fact that the conspiracy

1 was at such a level that someone could or would get killed to be
2 a highly aggravating factor. As an example, I point to another
3 person who came up in this trial, Mr. Rayburn. Now, for the
4 life of me, I don't understand why someone at the top of a drug
5 dealing chain like this, like Mr. Rayburn, who is in charge of
6 interstate shipments of a large quantity of drugs involving who
7 knows what suppliers -- there was reference to an Armenian gang
8 or what have you -- why he has not been charged with any crime.

9 But if he were in this courtroom, I would absolutely
10 consider the fact that he was part of an enterprise in which one
11 of the dealers was killed to be a highly aggravating factor,
12 even if he didn't personally have anything to do with that. So
13 here, where we have someone who was part of that conspiracy and
14 had some role at least in the aftermath, I do find the nature
15 and circumstances of the offense to be more significant than
16 most cases like this and will consider that in reaching a
17 sentence.

18 As for the history and characteristics of the
19 defendant, Mr. Williams has no meaningful criminal history. And
20 to some degree, that's remarkable, given that he is convicted of
21 a drug trafficking crime. And he has motor vehicle convictions.
22 The -- I'm not swayed really at all by the nol-prossed state
23 district court charges for assault back when he was 22 years
24 old; I see that as just an effort to be as zealous an advocate
25 as one could be.

1 So he has no criminal record, and that's significant.
2 He also has multiple children from different relationships,
3 including three children who are 15 or younger. These are all
4 things that we typically consider to be mitigating factors in
5 our cases. He also has some positive work history and has
6 submitted letters attesting to his character, including from, as
7 Mr. Hawks pointed out, the mother of Taeyan Williams, under
8 circumstances where there would be is a lot of reasons why she
9 would not be attesting to his character.

10 At the same time, he has engaged in these obstruction
11 of justice activities, which, while included in the guidelines,
12 are -- some of them are more significant than typical. There
13 are these post offense issues in detention. I agree with
14 Mr. Hawks, I'm not going to take that too far, but other
15 defendants try to better themselves or at least try to avoid any
16 kind of negative activities while in detention. That has not
17 been the case with Mr. Williams. There was also this veiled
18 attempt to intimidate Ms. Chaplin at the trial, which I
19 observed, which is highly troubling and indicative of someone
20 who does not have a respect for the law.

21 So even beyond the issues that already came up in the
22 presentence report, things like the wiping of the phone, the
23 flushing of the drugs, the efforts to dispose of the evidence
24 relating to the killing, those are additional negative factors.

25 Considering all of the factors and particularly the

1 nature and circumstances of this offense, I clearly conclude, at
2 a minimum, a high-end sentence is necessary to reflect the
3 seriousness of the offense, to promote respect for the law, to
4 provide just punishment, and to provide adequate deterrence. I
5 also have carefully considered whether an upward variance is
6 warranted.

7 And I go back to my earlier comments about how the
8 guidelines provide for a very significant enhancement for
9 someone who is involved in either a drug transaction or a drug
10 conspiracy in which a death results from an overdose. And for
11 some reason, there's a gap, where this type of situation is not
12 covered by that type of enhancement. There is the potential
13 enhancements the government proposed. For the reasons I have
14 stated, I am not going to give those enhancements.

15 We all agreed that the overdose enhancement does not
16 apply, but to me, the nature and circumstances of this offense,
17 as I said, are as serious if not -- and certainly, in my view
18 more serious than the ones involved in the overdose deaths,
19 because no one argues that the overdose deaths are things that
20 are intended, but they are certainly something that can be
21 expected, and people should know better than to be dealing under
22 those circumstances.

23 But I do find that to not -- to just stay within the
24 guidelines where there's no enhancement for being involved in a
25 conspiracy involving a death of this serious nature, the

1 violence that likely was involved with the death itself, would
2 create some unwarranted disparities with defendants who are
3 sentenced at severe levels for being involved in these other
4 forms of death from the overdose, and so I do think that an
5 upward variance is necessary, both to reflect the seriousness of
6 this offense, the egregious loss of life, the impact that it's
7 had on Mr. Smothers' family, which we heard from both in writing
8 and in person in a very persuasive way, but also, again, to
9 place this at least in the range of cases in which death results
10 from other means that are accounted for in the guidelines, such
11 as the death from an overdose or from the other forms of death
12 that were proposed by the government.

13 At the same time, an upward variance to the level of
14 life imprisonment to me is just not appropriate. I understand
15 that the law allows enhancements based on relevant conduct, I've
16 already addressed my findings on that, but to in my discretion
17 on an upward variance vary upward to a life sentence effectively
18 would nullify the jury's verdict, I think would cast serious
19 doubt -- particularly when it's a judge's upward variance and
20 not based on an enhancement that's been found -- cast serious
21 doubt on the fairness of our justice system, where someone goes
22 to trial, gets acquitted of conduct -- for better or worse, even
23 if I agree or disagree with the jury's verdict, the jury spoke,
24 and to effectively ignore that and say, I'm going to step in and
25 give the same sentence that would have resulted otherwise, the

1 circumstances have to be even more extraordinary than these
2 here.

3 And they are extraordinary. The loss of life, the
4 impact is extraordinary, but not to the level of -- or not a
5 basis in my mind to effectively act as if nothing happened in
6 the courtroom, when we had the trial a few months ago.

7 Nevertheless, as I said, because of the death that
8 resulted, the serious impact of that, the fact that it's
9 accounted for in other types of sentences for similar drug
10 trafficking offenses, where there is a death that results in
11 some other way, I do find that this is a factor not adequately
12 considered by the guidelines. I also factor in the obstruction
13 of justice activity, which as I said, some of it's captured in
14 those two points, but I believe the activities involving perhaps
15 at least trying to dispose of the evidence of the killing is at
16 a different level. It's not adequately considered by those two
17 guideline points.

18 So for those reasons, I will grant an upward variance.
19 Again, trying to balance that need with, again, making clear
20 that the sentence is consistent in both law and fact and in
21 perception with the jury's verdict, I conclude that a sentence
22 of 276 months of imprisonment in total is sufficient but not
23 greater than necessary to meet the purposes of sentencing.

24 So with that, I'm going to impose a sentence.
25 Mr. Williams, if you could stand while I impose the sentence.

1 In the case of The United States v. Williams, the
2 Court sentences the defendant as follows:

3 On Count One, conspiracy to distribute and possess
4 with intent to distribute controlled substances, the Court
5 sentences you to a term of imprisonment of 240 months, which is
6 the maximum penalty, on each count, on Count One and Count Six,
7 to be followed by five years of supervised release on each
8 count;

9 On Count Seven, possession with intent to distribute
10 500 grams or more of methamphetamine, the Court sentences you to
11 a term of imprisonment of 276 months, to be followed by five
12 years of supervised release;

13 On Count Nine, conspiracy to destroy or conceal
14 evidence, the Court sentences you to a term of imprisonment of
15 240 months, which is the maximum penalty on that count, to be
16 followed by three years of supervised release, which is the
17 maximum on that count.

18 All terms of imprisonment and terms of supervised
19 release will run concurrently for a total sentence of 276 months
20 of imprisonment and five years of supervised release. I will
21 impose no fine, based on the lack of ability to pay. You are
22 required to pay the special assessment of \$400. I will enter
23 the order of forfeiture, which has not been objected to, and
24 make it part of the judgment. The standard and statutory
25 conditions of supervised release will apply.

1 Mr. Hawks, is there any reason to recite them? They
2 are stated specifically in the presentence report.

3 MR. HAWKS: No, Your Honor.

4 THE COURT: Now, there are also additional special
5 conditions of supervised release which you will be following.
6 First, you must report to U.S. Immigration and Customs
7 Enforcement and follow all the instructions and reporting
8 requirements until any deportation proceedings are completed.
9 If you're ordered deported from the United States, you must
10 remain outside the United States unless legally authorized to
11 reenter. If you reenter the United States, you must report to
12 the nearest probation officer within 72 hours after you return.

13 You must participate in a mental health treatment
14 program and follow the rules and regulations of that program,
15 and the probation officer, in consultation with the treatment
16 provider, will supervise your participation in that program.
17 You must also submit to substance abuse testing to determine if
18 you've used a prohibited substance. You must not attempt to
19 obstruct or tamper with the testing methods. And you must pay
20 the special assessment of \$400 if you have not already done so.

21 You also must participate in a substance abuse
22 treatment program and follow the rules and regulations of that
23 program. The probation officer will supervise your
24 participation in that program.

25 Any recommendations you would offer for the Bureau of

1 Prisons, Mr. Hawks?

2 MR. HAWKS: Your Honor, just generally, geographically
3 close to Laurel, Maryland.

4 THE COURT: Okay, I will include that recommendation.

5 Mr. Williams, although you've had no prior convictions
6 of this type, this was a very serious offense. It was not
7 ordinary drug dealing, when at a minimum, one of your suppliers
8 was killed, and you took over his stash and drugs for your own
9 profit. My finding is, it may have played some role in at least
10 covering up that death. Even without finding every fact that
11 the government sought to prove, that conduct in and of itself is
12 morally reprehensible, and then you compounded it by trying to
13 destroy evidence.

14 So you are fortunate, based on the jury's verdict,
15 that the sentence is as limited as it is. I found it remarkable
16 that even with the understanding that there hasn't been a
17 finding of the type that the government has asked for, that
18 you know, in your statement to the Court, you chose to focus on
19 the drug quantity. You made some apologies but deliberately --
20 or it appears, to have deliberately avoided any -- not even
21 apology, because I understand you might not do that, but even a
22 sense of regret for what happened to the Smothers family, and I
23 think that's something that you need think about in the long
24 period you're going to be in prison.

25 You need to use the time you have in prison to think

1 about this crime and resolve to live a law abiding life going
2 forward, to make amends for your conduct, and to think about
3 what the result of this was, regardless of what your specific
4 role was, and until you come to terms with this, I am concerned
5 that you won't be ready to come back to society, and that's one
6 of the reasons for the length of the sentence.

7 But hopefully, with that amount of time, with the
8 programs that are available in prison, and with supervised
9 release, you will resolve to move in a positive direction, and
10 we certainly -- that is what we all hope for, with all
11 defendants.

12 With that, you may be seated.

13 Mr. Williams, you generally have the right to appeal
14 your conviction and sentence subject to any waivers you may have
15 made in the plea agreement. If there's basis to appeal and you
16 wish to do so, you must file a notice of appeal within 14 days
17 of the entry of judgment. If you request, the Clerk will
18 prepare and file a notice of appeal on your behalf. If you
19 cannot afford to pay the cost of an appeal or for appellate
20 counsel, you can apply to have the court waive the filing fee
21 and appoint counsel to represent you on the appeal.

22 Are there prior indictments and charges that need to
23 be dismissed, Ms. Grossi?

24 (Conference among Ms. Grossi, Mr. Hanlon, and Mr. Moomau.)

25 MS. GROSSI: The government moves to dismiss all prior

1 indictments, Your Honor.

2 THE COURT: Okay. As to Mr. Scott Williams --

3 MS. GROSSI: Yes.

4 THE COURT: -- that motion is granted.

5 MS. GROSSI: Thank you, Your Honor.

6 THE COURT: Is there anything else I need to address
7 from either side?

8 MS. GROSSI: Not from the government, Your Honor.

9 MR. HAWKS: No, Your Honor, thank you.

10 THE COURT: Okay.

11 As I always do, I do want to recognize the members of
12 the public who have come to this sentencing. I realize -- or
13 I think everyone is aware that criminal proceedings in the
14 United States are public proceedings. An important part of that
15 is having individuals have the opportunity to participate,
16 either verbally or silently, and also to witness the proceedings
17 so there's a fair -- an understanding of whether they're being
18 conducted fairly or not. I certainly want to therefore thank
19 everyone who came, regardless of purpose or who they were here
20 to support. It's an important part of the proceedings, and I
21 thank you for taking the time to be here.

22 I do want to recognize, because they were here not
23 just today but throughout the trial, the Smothers family, who
24 sat through this trial. While the outcome of the trial may not
25 have been what you hoped for and I have made findings that I

1 deem appropriate under the present circumstances that you may
2 not agree with, we in the justice system, including our jurors,
3 in whom I have the utmost confidence, do our best to faithfully
4 apply the law to each case to achieve just outcomes, and I
5 assure you that everyone here at the United States District
6 Court has done our best to do that in this case.

7 We all recognize the profound loss that you and our
8 entire community has suffered from the death of Noah Smothers.
9 We know that no verdict or sentence can ever bring him back or
10 make you whole again, but I do want to assure you that your
11 presence throughout this case has been a meaningful and
12 important part of our proceedings, and I certainly wish you
13 peace in the years to come.

14 Thank you all very much.

15 THE COURTROOM DEPUTY: All rise. This Honorable Court
16 now stands adjourned.

17 (The proceedings were adjourned at 11:28 a.m.)
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1 CERTIFICATE OF OFFICIAL REPORTER

2 I, Patricia Klepp, Registered Merit Reporter, in and for
3 the United States District Court for the District of Maryland,
4 do hereby certify, pursuant to 28 U.S.C. § 753, that the
5 foregoing is a true and correct transcript of the
6 stenographically-reported proceedings held in the above-entitled
7 matter and the transcript page format is in conformance with the
8 regulations of the Judicial Conference of the United States.

9 Dated this 1st day of December, 2023.

10
11 /s/

12 PATRICIA KLEPP, RMR
13 Official Court Reporter
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United States District Court

District of Maryland

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UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed on or After November 1, 1987)

v.

Case Number: TDC-8-18-CR-00631-001

SCOTT ANTHONY WILLIAMS

Defendant's Attorney: Kwasi L. Hawks and
Dwight E. CrawleyAssistant U.S. Attorney: Leah B. Grossi,
Michael C. Hanlon, and
William D. Moomau**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) ____
- ☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.
- ☒ was found guilty on count(s) 1ss, 6ss, 7ss, and 9ss of the Second Superseding Indictment after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. § 846	Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances	June 6, 2018	1ss
21 U.S.C. § 841(a)(1)	Possession with Intent to Distribute Controlled Substances	June 6, 2018	6ss

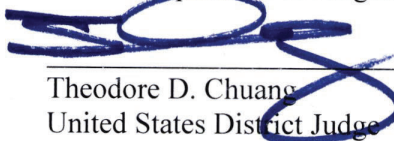
The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 as modified by United States v. Booker, 543 U.S. 220 (2005).

- ☒ The defendant has been found not guilty on count(s) 2ss, 3ss, 4ss, 5ss, and 8ss of the Second Superseding Indictment.
- ☒ The Original Indictment and the Superseding Indictment are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

August 22, 2023

Date of Imposition of Judgment


Theodore D. Chuang
United States District Judge

August 22, 2023

Date

Name of Court Reporter: Patti Klepp

JA2573

DEFENDANT: SCOTT ANTHONY WILLIAMS
CASE NUMBER: TDC-8-18-CR-00631-001

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. § 841(a)(1) and (b)(1)(A)(viii)	Possession with Intent to Distribute 500g or More of Methamphetamine	June 6, 2018	7ss
18 U.S.C. § 1512(c)(1) and (k)	Conspiracy to Destroy and Conceal Evidence	January 24, 2019	9ss

DEFENDANT: Scott Anthony Williams

CASE NUMBER: TDC-8-18-CR-00631-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for terms of 240 months on each of Counts 1ss, 6ss, and 9ss, and a term of 276 months on Count 7ss, all to run concurrently with each other, for a total term of 276 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

☒ That the defendant be designated to a facility as close as possible to Laurel, Maryland, so that family may visit.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ a.m./p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

☐ before 2:00 p.m. on _____.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY U.S. MARSHAL

JA2575

DEFENDANT: Scott Anthony Williams

CASE NUMBER: TDC-8-18-CR-00631-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for terms of 5 years on each Counts 1ss, 6ss, and Count 7ss, and a term of 3 years on Count 9ss, all to run concurrently with each other, for a total term of 5 years.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

A. MANDATORY CONDITIONS

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance.
- 3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
- 4) ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
- 5) You must cooperate in the collection of DNA as directed by the probation officer.
- 6) ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
- 7) ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page

B. STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

DEFENDANT: Scott Anthony Williams**CASE NUMBER: TDC-8-18-CR-00631-001**

- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

C. SUPERVISED RELEASE ADDITIONAL CONDITIONS

☒ **COMPLY WITH ICE INSTRUCTIONS**

You must immediately report to U.S. Immigration and Customs Enforcement and follow all their instructions and reporting requirements until any deportation proceedings are completed.

☒ **DEPORTED/REMAIN OUTSIDE OF THE UNITED STATES**

If you are ordered deported from the United States, you must remain outside the United States, unless legally authorized to re-enter. If you re-enter the United States, you must report to the nearest probation office within 72 hours after you return.

☒ **MENTAL HEALTH TREATMENT**

You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

☒ **SUBSTANCE ABUSE TESTING**

You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

☒ **DRUG TREATMENT**

You must participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

☒ **SPECIAL ASSESSMENT**

You must pay the special assessment of \$400.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

JA2577

DEFENDANT: Scott Anthony Williams

CASE NUMBER: TDC-8-18-CR-00631-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 5B.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$400.00	N/A	Waived	N/A	N/A

☐ CVB Processing Fee \$30.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

TOTALS \$ _____ \$ _____

☐ Restitution amount ordered pursuant to plea agreement _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows: _____

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Scott Anthony Williams

CASE NUMBER: TDC-8-18-CR-00631-001

SCHEDULE OF PAYMENTS

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ \$400 Special Assessment to be paid in full immediately.
- B ☐ \$_____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ Not later than _____; or
- D ☐ Installments to commence _____ day(s) after the date of this judgment.
- E ☐ In _____ (e.g. *equal weekly, monthly, quarterly*) installments of \$_____ over a period of _____ year(s) to commence when the defendant is placed on supervised release.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Bureau of Prisons Inmate Financial Responsibility Program, are to be made to the Clerk of the Court.

☒ **NO RESTITUTION OR OTHER FINANCIAL PENALTY SHALL BE COLLECTED THROUGH THE INMATE FINANCIAL RESPONSIBILITY PROGRAM.**

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

- ☐ in equal monthly installments during the term of supervision; or
- ☐ on a nominal payment schedule of \$_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

☐ Joint and Several

Case Number

Defendant and Co-Defendant

Names (including defendant
number)

Total Amount

Joint and Several
AmountCorresponding Payee,
if appropriate

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

See attached Preliminary Order of Forfeiture.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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UNITED STATES OF AMERICA

v.

SCOTT ANTHONY WILLIAMS,

Defendant

CRIMINAL NO. TDC-18-631

PRELIMINARY ORDER OF FORFEITURE

Whereas, on September 29, 2021, a federal grand jury sitting in the District of Maryland returned a Second Superseding Indictment charging Scott Anthony Williams (the "Defendant") with conspiracy to distribute and possess with intent to distribute controlled substances, in violation of 21 U.S.C. § 846 (Count One), conspiracy to interfere with interstate commerce by robbery and extortion, in violation of 18 U.S.C. § 1951(a) (Count Two), interference with interstate commerce by robbery and extortion, in violation of 18 U.S.C. §§ 1951(a) and 2 (Count Three), kidnapping with death resulting, in violation of 18 U.S.C. §§ 1201(a)(1) and 2 (Count Four), possess, use, carry, and brandish a firearm during and in furtherance of a crime of violence and drug trafficking crime, in violation of 18 U.S.C. §§ 924(c) and 2 (Count Five), possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count Six), possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(viii) and 18 U.S.C. § 2 (Count Seven), possession of firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count Eight), and conspiracy to destroy and conceal evidence, in violation of 18 U.S.C. § 1512(c)(1) and (k) (Count Nine); and

Whereas, the Second Superseding Indictment also included a forfeiture allegation, which provided notice that the United States intended to seek forfeiture, pursuant to 18 U.S.C. §§ 924(d) and 981(a)(1)(C), 21 U.S.C. § 853, and 28 U.S.C. § 2461(c), upon conviction of the Defendant of the offenses alleged in Counts One through Nine of the Second Superseding Indictment; and

WHEREAS, following a twelve-day jury trial, on May 11, 2023, the Defendant was convicted on Counts One, Six, Seven, and Nine of the Second Superseding Indictment by a federal jury sitting in the District of Maryland; and

WHEREAS, the United States admitted evidence at trial establishing the requisite nexus between the Subject Property and the Defendant's offenses; and

WHEREAS, the United States is now entitled to a Preliminary Order of Forfeiture against the following items that are proceeds and/or facilitating property of the Defendant's controlled substances offenses pursuant to 21 U.S.C. § 853 and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure:

1. approximately \$213,573.00 in U.S. currency (18-DEA-642370);
2. one loaded Bryco 38 handgun bearing serial number: 371085 containing one .380 caliber magazine with approximately six rounds of .380 caliber ammunition (18-ICE-002843);
3. one loaded Sig Sauer P228 9mm handgun bearing serial number B188194 containing one 9mm magazine with approximately six rounds of 9mm ammunition (18-ICE-002844);
4. one loaded Beretta 21-A .25 caliber handgun bearing serial number DAA047571 containing one .25 caliber magazine with approximately eight rounds of .25 caliber ammunition (18-ICE-002845);
5. one Century Arms model VZ2008 Sporter AK47 style rifle bearing serial number V08PM013368 (18-ICE-002846);
6. three additional magazines for the Century Arms rifle containing approximately 78 rounds of 7.62x39 ammunition (18-ICE-002847)

7. approximately 57 additional rounds of 7.62-39 ammunition (18-ICE-002848);
8. one box of 9mm caliber ammunition for the Sig Sauer handgun containing approximately 57 rounds of 9mm caliber ammunition (18-ICE-002849);
9. one box of .25 caliber ammunition for the Beretta handgun, containing approximately 53 rounds of ammunition (18-ICE-002850); and
10. one additional magazine for an AR 15 rifle, containing approximately two rounds of 5.56 caliber ammunition (18-ICE-002851)

(collectively, the “Subject Property”);

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, AND DECREED that:

The Court finds, pursuant to Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure, that the United States has established the requisite nexus between the Subject Property and the offenses to which the Defendant was found guilty.

1. The Court shall retain jurisdiction in this case for the purpose of enforcing this Order.

2. Accordingly, all of Defendant’s interests in the Subject Property are hereby forfeited to the United States for disposition pursuant to 21 U.S.C. § 853.

3. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States is hereby authorized to seize the Subject Property and maintain it in its secure custody and control.

4. Pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish, for thirty (30) consecutive calendar days on the government forfeiture website www.forfeiture.gov, notice of the Preliminary Order of Forfeiture and notice of the United States’ intent to dispose of the Subject Property.

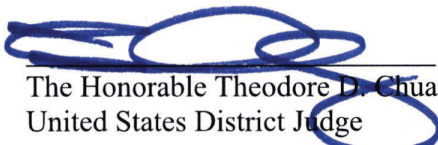
5. Pursuant to 21 U.S.C. § 853(n)(1), the United States shall give, to the extent practicable, direct written notice to any person known to have alleged an interest in the Subject Property to be forfeited.

6. Pursuant to 21 U.S.C. § 853(n)(2) and (3), the notice referred to above shall state: (a) that any person, other than the Defendant, asserting a legal interest in the Subject Property, shall, within sixty (60) days after the first day of publication on the government forfeiture website or within thirty (30) days after receipt of actual notice, whichever is earlier, file a petition with the United States District Court for the District of Maryland, requesting a hearing to adjudicate the validity of his or her interest in the Subject Property; and (b) that the petition shall be signed by the petitioner under the penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought.

7. Pursuant to 21 U.S.C. § 853(n)(7), following the Court's disposition of all petitions filed under 21 U.S.C. § 853(n)(6), or if no such petitions are filed following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of such petitions, the United States shall have clear title to the Subject Property.

8. Upon adjudication of all third party interests, this Court will enter a Final Order of Forfeiture, pursuant to 21 U.S.C. § 853 , and Rule 32.2(c) of the Federal Rules of Criminal Procedure, in which all interests will be addressed.

9. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture will become final as to the Defendant at the time of his sentencing, will be part of the Defendant's criminal sentence, and will be included in the criminal judgment entered by this Court against him.


The Honorable Theodore D. Chuang
United States District Judge

8/22/23

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

*

v.

*

18-631-TDC-1

SCOTT WILLIAMS

*

NOTICE OF APPEAL

To the HONORABLE JUDGE of SAID COURT

Notice is hereby given that SCOTT WILLIAMS, the defendant in the above styled and numbered cause hereby appeals to the United States Court of Appeals for the Fourth Circuit the final judgment entered in this action on the 22nd day of August, 2023.

_____/Signed_____
KWASI HAWKS
Interim Counsel for the Appellant

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United States District Court

District of Maryland

UNITED STATES OF AMERICA

v.

TAEYAN RAYMOND WILLIAMS

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed on or After November 1, 1987)

Case Number: TDC-8-18-CR-00631-002

Defendant's Attorney: Christopher C. Nieto
 Assistant U.S. Attorney: Leah B. Grossi, Michael C.
 Hanlon and William D.
 Moomau

THE DEFENDANT:

- ☐ pleaded guilty to count(s) ____
- ☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.
- ☒ was found guilty on count(s) 1ss and 6ss of the Second Superseding Indictment after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. § 846	Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances	June 6, 2018	1ss
21 U.S.C. § 841(a)(1)	Possession with Intent to Distribute Controlled Substances	June 6, 2018	6ss

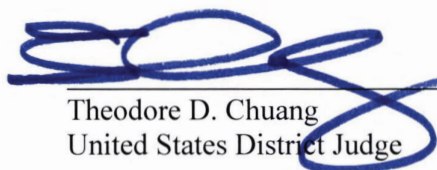
The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 as modified by United States v. Booker, 543 U.S. 220 (2005).

- ☒ The defendant has been found not guilty on count(s) 2ss, 3ss, 4ss and 5ss of the Second Superseding Indictment.
- ☒ The Indictment and the Superseding Indictment are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

August 23, 2023

Date of Imposition of Judgment


 Theodore D. Chuang
 United States District Judge

August 23, 2023

Date

Name of Court Reporter: Nadine Bachmann

JA2586

DEFENDANT: Taeyan Raymond Williams

CASE NUMBER: TDC-8-18-CR-00631-002

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for terms of 150 months on each of Counts 1ss and 6ss of the Second Superseding Indictment, to run concurrently with each other, for a total term of 150 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

☒ That the defendant be designated to the FCI at Fort Dix, New Jersey or, in the alternative, a facility in the Mid-Atlantic area so that he may participate in Commercial Driver's License (CDL) programs and to allow family to visit.

☒ That the defendant be permitted to participate in the Residential Drug Abuse Program (RDAP) while in the custody of the Bureau of Prisons.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ____ a.m./p.m. on ____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

☐ before 2:00 p.m. on _____.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered on ____ to ____ at ____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY U.S. MARSHAL

JA2587

DEFENDANT: Taeyan Raymond Williams

CASE NUMBER: TDC-8-18-CR-00631-002

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for terms of 5 years on each of Counts 1ss and 6ss, to run concurrently with each other, for a total term of 5 years.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

A. MANDATORY CONDITIONS

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance.
- 3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
- 4) ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
- 5) You must cooperate in the collection of DNA as directed by the probation officer.
- 6) ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
- 7) ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page

B. STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

DEFENDANT: Taeyan Raymond Williams**CASE NUMBER: TDC-8-18-CR-00631-002**

- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

C. SUPERVISED RELEASE ADDITIONAL CONDITIONS

☒ **MENTAL HEALTH TREATMENT**

You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

☒ **DRUG TREATMENT**

You must participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

☒ **SUBSTANCE ABUSE TESTING**

You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

☒ **POSSESSION WITHOUT VALID PRESCRIPTION**

You must not use or possess any controlled substances without a valid prescription. If you do have a valid prescription, you must disclose the prescription information to the probation officer and follow the instructions on the prescription.

☒ **SPECIAL ASSESSMENT**

You must pay the special assessment of \$200.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Taeyan Raymond Williams

CASE NUMBER: TDC-8-18-CR-00631-002

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 5B.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	\$200	N/A	Waived	N/A	N/A

☐ CVB Processing Fee \$30.00☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee**Total Loss*******Restitution Ordered****Priority or Percentage**
TOTALS \$ _____ \$ _____
☐ Restitution amount ordered pursuant to plea agreement _____☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:☐ the interest requirement is waived for the ☐ fine ☐ restitution☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows: _____

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

SCHEDULE OF PAYMENTS

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ Special Assessment of \$200 due in full immediately.
- B ☐ \$_____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ Not later than _____; or
- D ☐ Installments to commence _____ day(s) after the date of this judgment.
- E ☐ In _____ (e.g. equal weekly, monthly, quarterly) installments of \$_____ over a period of _____ year(s) to commence when the defendant is placed on supervised release.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Bureau of Prisons Inmate Financial Responsibility Program, are to be made to the Clerk of the Court.

☒ **NO RESTITUTION OR OTHER FINANCIAL PENALTY SHALL BE COLLECTED THROUGH THE INMATE FINANCIAL RESPONSIBILITY PROGRAM.**

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

- ☐ in equal monthly installments during the term of supervision; or
- ☐ on a nominal payment schedule of \$_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant’s financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ Joint and Several

Case Number			
Defendant and Co-Defendant			
Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant’s interest in the following property to the United States:

See attached Preliminary Order of Forfeiture.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTa assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

TAEYAN RAYMOND WILLIAMS,

Defendant

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CRIMINAL NO. TDC-18-631

USDC - GREENBELT
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PRELIMINARY ORDER OF FORFEITURE

Whereas, on September 29, 2021, a federal grand jury sitting in the District of Maryland returned a Second Superseding Indictment charging Taeyan Raymond Williams (the “Defendant”) with conspiracy to distribute and possess with intent to distribute controlled substances, in violation of 21 U.S.C. § 846 (Count One), conspiracy to interfere with interstate commerce by robbery and extortion, in violation of 18 U.S.C. § 1951(a) (Count Two), interference with interstate commerce by robbery and extortion, in violation of 18 U.S.C. §§ 1951(a) and 2 (Count Three), kidnapping with death resulting, in violation of 18 U.S.C. §§ 1201(a)(1) and 2 (Count Four), possess, use, carry, and brandish a firearm during and in furtherance of a crime of violence and drug trafficking crime, in violation of 18 U.S.C. §§ 924(c) and 2 (Count Five), and possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count Six); and

Whereas, the Second Superseding Indictment also included a forfeiture allegation, which provided notice that the United States intended to seek forfeiture, pursuant to 18 U.S.C. §§ 924(d) and 981(a)(1)(C), 21 U.S.C. § 853, and 28 U.S.C. § 2461(c), upon conviction of the Defendant of the offenses alleged in Counts One through Six of the Second Superseding Indictment; and

WHEREAS, following a twelve-day jury trial, on May 11, 2023, the Defendant was convicted on Counts One and Six of the Second Superseding Indictment by a federal jury sitting in the District of Maryland; and

WHEREAS, the United States admitted evidence at trial establishing the requisite nexus between the Subject Property and the Defendant's offenses; and

WHEREAS, the United States is now entitled to a Preliminary Order of Forfeiture against the following items that are proceeds and/or facilitating property of the Defendant's controlled substances offenses pursuant to 21 U.S.C. § 853 and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure:

1. approximately \$213,573.00 in U.S. currency (18-DEA-642370);
2. one loaded Bryco 38 handgun bearing serial number: 371085 containing one .380 caliber magazine with approximately six rounds of .380 caliber ammunition (18-ICE-002843);
3. one loaded Sig Sauer P228 9mm handgun bearing serial number B188194 containing one 9mm magazine with approximately six rounds of 9mm ammunition (18-ICE-002844);
4. one loaded Beretta 21-A .25 caliber handgun bearing serial number DAA047571 containing one .25 caliber magazine with approximately eight rounds of .25 caliber ammunition (18-ICE-002845);
5. one Century Arms model VZ2008 Sporter AK47 style rifle bearing serial number V08PM013368 (18-ICE-002846);
6. three additional magazines for the Century Arms rifle containing approximately 78 rounds of 7.62x39 ammunition (18-ICE-002847)
7. approximately 57 additional rounds of 7.62-39 ammunition (18-ICE-002848);
8. one box of 9mm caliber ammunition for the Sig Sauer handgun containing approximately 57 rounds of 9mm caliber ammunition (18-ICE-002849);
9. one box of .25 caliber ammunition for the Beretta handgun, containing approximately 53 rounds of ammunition (18-ICE-002850); and
10. one additional magazine for an AR 15 rifle, containing approximately two rounds of 5.56 caliber ammunition (18-ICE-002851)

(collectively, the “Subject Property”);

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, AND DECREED that:

The Court finds, pursuant to Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure, that the United States has established the requisite nexus between the Subject Property and the offenses for which the Defendant was found guilty.

1. The Court shall retain jurisdiction in this case for the purpose of enforcing this Order.

2. Accordingly, all of Defendant’s interests in the Subject Property are hereby forfeited to the United States for disposition pursuant to 21 U.S.C. § 853.

3. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States is hereby authorized to seize the Subject Property and maintain it in its secure custody and control.

4. Pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish, for thirty (30) consecutive calendar days on the government forfeiture website www.forfeiture.gov, notice of the Preliminary Order of Forfeiture and notice of the United States’ intent to dispose of the Subject Property.

5. Pursuant to 21 U.S.C. § 853(n)(1), the United States shall give, to the extent practicable, direct written notice to any person known to have alleged an interest in the Subject Property to be forfeited.


6. Pursuant to 21 U.S.C. § 853(n)(2) and (3), the notice referred to above shall state:
(a) that any person, other than the Defendant, asserting a legal interest in the Subject Property, shall, within sixty (60) days after the first day of publication on the government forfeiture website or within thirty (30) days after receipt of actual notice, whichever is earlier, file a

petition with the United States District Court for the District of Maryland, requesting a hearing to adjudicate the validity of his or her interest in the Subject Property; and (b) that the petition shall be signed by the petitioner under the penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought.

7. Pursuant to 21 U.S.C. § 853(n)(7), following the Court's disposition of all petitions filed under 21 U.S.C. § 853(n)(6), or if no such petitions are filed following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of such petitions, the United States shall have clear title to the Subject Property.

8. Upon adjudication of all third party interests, this Court will enter a Final Order of Forfeiture, pursuant to 21 U.S.C. § 853 , and Rule 32.2(c) of the Federal Rules of Criminal Procedure, in which all interests will be addressed.

9. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture will become final as to the Defendant at the time of his sentencing, will be part of the Defendant's criminal sentence, and will be included in the criminal judgment entered by this Court against him.


The Honorable Theodore D. Chuang
United States District Judge

8/23/23

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

*

TAEYAN WILLIAMS

*

Criminal Case No. TDC-18-0631

*

NOTICE OF APPEAL

Notice is hereby given that the above-named defendant, Taeyan Williams, hereby appeals to the United States Court of Appeals for the Fourth Circuit from the judgment imposed in the action as set forth in open court on August 23, 2023.

Undersigned counsel were court-appointed for the limited purpose of representing Mr. Williams at the District Court level. Undersigned counsel will not be continuing to represent Mr. Williams in this appeal.

Respectfully submitted,

/S/

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